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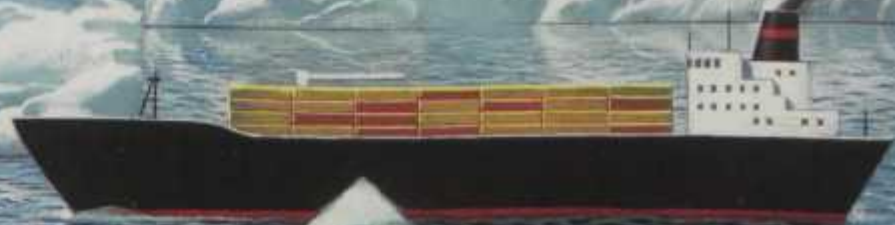
**Coping With New Law
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Overcoming 10 Key Threats To Success

JUNE 1982



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PHOTO: GILBERT SUE SCOTT

Travel agency founder Maryles Casto took steps to save her firm when it was endangered by overly rapid growth—one of the 10 major threats to business success. Cover Story, Page 18.



PHOTO: RICHARD HOWARD

High-school students learn while they work at the New England Medical Center in one of many apprenticeship programs involving businesses nationwide. Education, Page 34.

COVER STORY

18 Ten Key Threats To Success

Many obstacles to business success spring from the entrepreneurial "personality." This list of the top 10 problems should generate ideas about how you can make your business better.

20—Other Views, Other Obstacles
28—For More Information

REGULATION

29 Disability Rules Target Job Bias

The new regulations for employing people with disabilities will lead to major changes in the workplace. Here is how the rules could affect your firm.

31—Interviewing The Disabled
33—Where To Go For Help

50 Regulations' Staggering Costs

The rising costs for businesses to comply with federal regulations raise questions about how far the government should go.

EDUCATION

34 Learning And Working—Together

Apprenticeship programs for high-school students help them prepare for the workplace and help firms develop sources of new employees.

SMALL-BUSINESS COMPUTING

39 Windows, Chips, And A Special Twofer

An update on software, hardware, information management, and advances in other areas of computer technology.

INTERNATIONAL TRADE

42 Paving The Way For Small Exporters

Small firms expanding into foreign markets are tapping numerous sources of information and advice available from the U.S. government.

SPECIAL REPORT

46 Insurance Trends Break The Cycle

You are likely to find bargains in casualty insurance, high prices for liability coverage, and more options than ever before.

FAMILY BUSINESS

54 How To Create A Family Council

Policy-making and other complex family-business concerns can be too burdensome for just one person; a family council spreads the tasks and improves the results.

56—Encouraging Openness
56—Overcoming Resistance

MANAGING

58 See You Out Of Court

Mediation can be faster, cheaper, and more satisfactory than going to court to resolve a business dispute.

60—How To Find A Mediator

FRANCHISING: A SPECIAL GUIDE

61 Is There A Franchise In Your Future?

One of the paths to growth for independent businesses is conversion to a franchise.

65—Doctors Examine Franchising
68—Do You Have What It Takes?
71—For More Information

POLL RESULTS

82 Views On Health Care And Competitiveness

Respondents to our Where I Stand polls say health insurance is too expensive and U.S. competitiveness is lagging.

WHERE I STAND

80 On Regulation

Results of this poll will be provided to leaders of Congress and the Bush administration as they consider the impact of federal regulations on the economy.

Editor's Note

The Small-Business Adviser

This month's cover story offers me a special opportunity to spotlight our editorial mission as the small-business adviser.

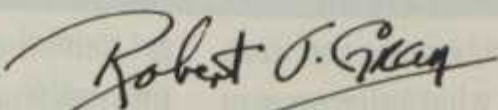
The article deals with the great paradox of entrepreneurship. The conflicting personality traits that propel individuals into starting businesses often make it difficult for them to succeed.

Entrepreneurs may be brilliant when it comes to innovation, but they often lack the people skills and communication strengths needed to build a team for the long haul.

You'll find focused advice here on recognizing and avoiding problem areas as you nurture your own business through start-up and growing pains. The article was written by Special Correspondent Sharon Nelson, who specializes in entrepreneurial coverage. You'll discover in reading her report how important her own people skills and communication strengths are in pulling together from many sources the information needed to produce a comprehensive report on such an important subject.

This issue also contains another update on the implementation of the Americans with Disabilities Act. This is a complex, far-reaching government mandate on how businesses must design their facilities, serve their customers, and deal with employees. Earlier articles have explained the requirements for providing physical access to places of business and such customer-service requirements as sign-language interpreters for the deaf. This month's report covers the next phase to be implemented—regulations on employment of the disabled, beginning with the job-application process. It was written by Staff Writer Bradford McKee, who has been following this issue from its first days as legislation.

And those are just two of the many articles that you will want to save because you will be dealing with their respective subjects many times in the future. There are many other useful features in this issue—and in all issues of the small-business adviser.



Robert T. Gray
Editor



PHOTO: SAM MENDENHALL

"Dogfight" leader Mike Blackstone gives his firm's clients a taste of glory in aerial combat. *Making It*, Page 13.

DEPARTMENTS

- 6 Letters
- 8 Entrepreneur's Notebook
- 9 Dateline: Washington
- 10 Managing Your Small Business
- 13 Making It
- 74 Direct Line
- 77 It's Your Money
- 79 For Your Tax File
- 84 Classified Ads
- 86 Congressional Alert
- 87 Editorials
- 88 Free-Spirited Enterprise

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Quality Is The Answer For Real Competitiveness

You're right about Total Quality Management [Cover Story, May]. Concern for the bottom line has led companies to cut back on research and development, quality, and capital investments for so long that our firms have trouble competing.

If we want a recovery, companies need to make quality the first priority.

This needs to be preached all the way down to the factory floor.

The people building American products need to be proud of them, build them to last, build something they would want to buy themselves, not because it's made in America but because it's the best-designed, best-built product of that type in the world.

Michael Emken

Vice President,

Component Manufacturing

Carbon Implants, Inc.

Austin, Texas

New Energy By All Means, But Make It Safe

About your agenda for the environment and natural resources ["Building The American Future," Cover Story, March]: The United States needs to develop a comprehensive energy policy that would be adequate for the needs of industry, but not at the price of the environment.

While it is clearly unrealistic, if not impossible, to return our environment to the quality levels that existed before the Industrial Revolution, we need to continue to work within intelligent guidelines to preserve the quality of the environment we have now.

David Hron

Stevens Point, Wis.

A Little EPA Accountability

We have a Superfund cleanup site in our small community. We believe the Environmental Protection Agency has spent close to \$1 million, and it is not done yet.

The nation's environmental problems must be corrected, but we are not using common sense and fiscal responsibility to solve them.

Scott M. Shafer

United New Mexico Bank at Vaughn

Carrizozo, N.M.

Proper Auditing Would Reduce Health-Care Costs

"States Take Lead In Health Reform" [April], while informative, doesn't cover the major cause: the error and fraud rate in billings. The federal government admits a minimum 10 percent error/fraud rate in all health-care billings.

For the past three years, we have been auditing health-service bills on a random basis. When we do manual audits, we have found a 34 percent error rate on hospital and physician bills.

We can reduce our health-care costs just by exercising due diligence in ensuring accuracy and honesty in health-care billing.

Robert F. Hickey

President

Innovative Strategies

Leawood, Kan.

Do We Want A Government Role?

We are a small company but have had a group insurance program for over 40 years. We have just been advised by our insurance carrier that our renewal premium increase will amount to 54 cents per hour per employee. This amounts to a 26 percent increase in premiums.

How can we, or our employees, afford this?

When the government got into the health-care business with Medicare and Medicaid, costs skyrocketed.

More government involvement, either state or federal, can only make things worse.

Preston E. Hiestand

Chairman of the Board

Handcraft Co., Inc.

Princeton, Wis.

Creativity Depends On Encouraging Diversity

For all of the empty talk by executives lately about encouraging diversity and tolerance in the workplace, it is certainly refreshing to see that someone is willing to express their personal style ["Take Off The Blinders, Show Off Your Style," Entrepreneur's Notebook, April].

I salute Margie A. Tingley for her honesty in voicing the unpopular: People are judged more by the way they look than what their talents are. My fear is that our decision makers will take from



this article that some "rebels" simply want the freedom to dress comfortably, rather than the urgent message that by implicitly endorsing conformity, they are stifling powerful forces of motivation and creativity.

Yes, it is messier dealing with people without masks, but the rewards are overwhelming, in terms of personal satisfaction and personal fulfillment.

*Mike D. Schamburg
Fremont, Neb.*

Likes Language That Isn't Too Technical

I just read "Small-Business Computing" in the April issue, and it was the most straightforward description of a variety of products I've read to date. Your explanation of terms and systems is perfect for the business user.

I know you have committed heresy by explaining all the terms, making them relate, and eliminating the "techno-babble."

PC enthusiasts may wish to condemn you for letting us in on their secret vocabulary, but I and many others, I'm sure, thank you for an excellent column.

Keith T. Gallagher

National Sales Manager

*The Network of City Business Journals
Los Angeles*

Voice Mail Can Be OK: Press 1 To Read This Letter

"Making The Most Of Your Telephone" [April] was rich with tips, but the author's bias against voice mail came through loud and clear.

Voice-mail systems, when designed and implemented by professionals, can be a tremendous asset.

The trick? Think like a caller when setting up a system. Don't subject a caller to an electronic runaround.

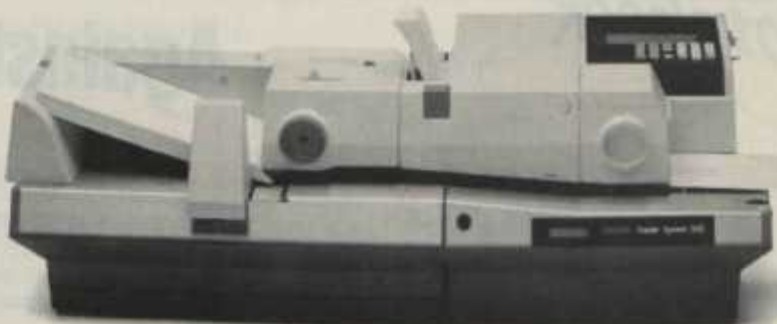
Callers welcome voice mail when they are confident that their call will be returned promptly.

Greg Bednar

*Director, Sales and Marketing
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Services, Inc.
Mankato, Minn.*

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Entrepreneur's Notebook

By Joe Sugar

A Strategy That Cuts Against The Grain

Business experts take just one look at my clothing store in St. Pauls, N.C., and say the numbers don't add up.

In an out-of-the-way, two-stoplight town of 2,000 people—and in a store and warehouse comprising just 13,000 square feet—Joe Sugar's, the store started by my grandfather in 1916, carries 227 different men's suit sizes. Our stock includes 11,000 pairs of pants, 8,000 suits and sport coats, and 5,000 shirts, not to mention everything else a man needs, from shoes to dress hats.

Experts take one look at that inventory and throw their books at us; the way we do business—all that extra clothing—should have led us to bankruptcy years ago.

We threw away their books; we'll have \$2.4 million in sales this year.

Entrepreneurs often forget that it's OK to break the rules and confound the experts as long as you back it up with a sound strategy and an understanding of the market.

Joe Sugar's has made its reputation by being able to fit anyone—our motto is "If you have a figure, we can fit it"—ranging from the big and tall to the short and portly.

I consider the cost of carrying that inventory to be an advertising expense. Most men have trouble finding a store with a big selection, and that's particu-

larly true for one who wears an unusual size like, say, a 52 regular portly. Even men who wear standard sizes are lucky to find a shop that carries a dozen suits that would fit them.

They'll find countless things in their size at Joe Sugar's. And that's what they tell their friends; not a day goes by when someone doesn't say how a friend told him our selection would satisfy the most hard-to-fit people anywhere.

That reputation helps us draw customers from distant markets. It's business we must have to survive because St. Pauls alone isn't big enough to support a store like ours.

We advertise in about a dozen regional papers and routinely draw customers more than an hour's drive away; if we didn't have the big inventory in all of those sizes, people wouldn't keep coming back.

Having the big selection is the hook, but it has to be

backed up with service, and, here again, it's OK for an entrepreneur to go beyond what an expert might say is the minimum.

In our case, we're overstaffed in alterations, with six people working on our clothes. Often, that allows us to do minor alterations while the customer waits, and it means some garments can be temporarily adjusted so a customer can get a better idea of how a suit will look after it is altered.

That kind of service is necessary to move all of that inventory.

Of course, our strategy wouldn't work for everyone. That's why the experts think this business—or almost any business run with this kind of inventory—should have gone broke in the 1960s.

We have very low overhead. There are no fancy fixtures at Joe Sugar's, only fancy clothes; our customers don't expect the snazzy dressing rooms of a big-city

men's store. Owning our building also helps us keep our operating expenses to a minimum.

Keeping the operating costs down makes it possible to carry 11,000 pairs of pants, where a store paying for high-rent space in a mall couldn't afford the cost of carrying so many goods.

Sticking to old-fashioned, against-the-grain values means we won't be a trendsetter, but that can be a selling tool. Just because all the other stores are selling pleats or some new style doesn't mean that everybody wants them; a lot of people don't. We carry just enough trendy merchandise to show we are with the times, but it's the basics that make us money; we very seldom get stuck with blue or gray suits.

Everything we promote is designed to encourage customers to buy more than one garment—10 percent off one shirt, 20 percent off the second, and so on—because if we ever find we can't move the inventory, then those business experts will be right.

Our business boils down to offering value, service, and price, but in a unique way.

Simply because a lot of executives believe in the latest pop management theories doesn't mean I have to; there is still room in business today for people who work hard, understand their market, and do things the old-fashioned way.

It's not that the business experts are wrong; it's just that they don't know my business as well as I do.



PHOTO: SORIANE HALL

Joe Sugar: The basics in every size.

Joe Sugar is president of Joe Sugar's of St. Pauls, Inc., in St. Pauls, N.C. This report was prepared with Contributing Editor Charles A. Jaffe.

Readers with special insights on meeting the challenges of starting and running a business are invited to contribute to Entrepreneur's Notebook. Write to: Editor, Nation's Business, 1615 H Street, N.W., Washington, D.C. 20062-2000.

What I Learned

Sticking to old-fashioned, against-the-grain values means we won't be a trendsetter, but that can be a selling tool. ... We carry just enough trendy merchandise to show we are with the times, but it's the basics that make us money; we very seldom get stuck with blue or gray suits.

Dateline: Washington

Business news in brief from the nation's capital.

Edited By Albert G. Holzinger

TAXES

Tax Bite Larger Than Ever And No Relief In Sight

"Tax Freedom Day," the average date on which taxpayers stopped working for government tax collectors and began working for themselves and their families, is later than ever, according to the Tax Foundation. Worse still, Congress almost certainly will do nothing this year to keep Tax Freedom Day from moving later on the calendar next year, according to tax experts in Washington.

In 1992, U.S. taxpayers labored a record average 126 days, from Jan. 1 until May 5, to satisfy all federal, state, and local tax obligations, according to the foundation, a nonprofit, nonpartisan research and public-education organization based in Washington. The organization has been calculating Tax Freedom Day since 1949, when taxpayers had to work only an average 83 days, or until March 24, to fulfill all tax obligations for the year. Last year, Tax Freedom Day occurred on May 2.

Slower income growth combined with federal and state tax increases accounted largely for the extra workdays needed to reach Tax Freedom Day, says Dan Witt, executive director of the foundation.

In an ominous sign of things to come, Congress has made no progress this year in reducing federal taxes. President Bush vetoed a revenue bill March 20 because it would have raised taxes. And little progress to reduce taxes is expected as the November presidential and congressional elections approach, says Benson Goldstein, manager of the Tax Policy Center of the U.S. Chamber of Commerce. "Neither side is willing to back away from its political position before the fall elections."

Essentially, Democrats in Congress have supported raising taxes for higher-

YOUR PUBLIC SERVICE



The average date on which American workers have earned enough income to cover their tax burden for the year.

1983	April 30
1984	April 28
1985	April 30
1986	May 1
1987	May 4
1988	May 1
1989	May 4
1990	May 3
1991	May 2
1992	May 5

Source: Tax Foundation

CHART: DEBORAH J. HUMPHRES

income individuals and reducing taxes for those in the middle class. Republicans have generally opposed all tax hikes.

One tax measure that Congress is likely to pass this year is legislation to extend several popular tax credits and deductions scheduled to expire June 30. These include a 20 percent corporate research and experimentation credit; an employer-provided education-assistance exclusion; and a 25 percent deduction for the cost of health-insurance premiums for the self-employed and their families.

—Joan C. Szabo

LABOR

Senate Filibuster Expected On Union-Backed Striker Bill

Sen. Orrin Hatch, R-Utah, is expected to lead a filibuster against union-backed striker legislation when the bill comes up for a vote in the Senate.

A similar striker measure was passed by the House last summer, and the Senate bill gained momentum during a United Auto Workers strike against Caterpillar Inc. earlier this year.

The measure would prohibit employers from hiring permanent replacement workers for strikers under any circumstance. Current law allows permanent replacement of strikers in cases involving "economic" issues such as wages and benefits. But it bans permanent replacements in strikes over "noneconomic" issues such as unfair labor practices.

Proponents of the legislation say it is essential to give union members adequate protection from losing their jobs if they strike, while opponents say current law provides a balance in the leverage that employers and workers have over each other.

According to Hatch, "S. 55 [the Senate bill] would overturn more than a half-century of labor law. It would strike down a well-established precedent that has been repeatedly upheld by the Supreme Court and ratified by Congress. This precedent recognizes during economic strikes... employers have the right to keep their businesses running by hiring permanent replacements."

In a meeting with business representatives, where he detailed his filibuster plans, Hatch said, "I intend for the Senate to take all the time that is necessary for my colleagues to understand completely what this legislation really stands for."

—Mary McElveen

SOCIAL SECURITY

House Approves Increase In Earnings Limit

The House has passed legislation that would almost double the amount of income that some retirees could earn without losing a portion of their Social Security benefits. The legislation is an amendment to a bill to reauthorize the Older Americans' Act.

The 1992 earnings limit before benefits are reduced is \$10,200 for those ages 65 to

69, and \$7,440 for those 62 to 64. Under the earnings limit, individuals 65 to 69 are required to forfeit \$1 in benefits for each \$3 that they earn over \$10,200; those 62 to 64 lose \$1 for every \$2 earned above \$7,440.

While the House-passed bill would increase the earnings limit in stages to \$20,000 by 1997 for Social Security recipients who are 65 to 69, it would not change the limit for younger retirees.

Opponents of the Social Security retire-

ment earnings test have been pushing for legislation to repeal it; they contend it discourages retired workers from returning to work. While repeal appears unlikely any time soon, the drive to double the limit has gathered greater support and stands a good chance of winning congressional approval before the November elections.

The Senate is expected to take up the House measure, H.R. 2967.

—Joan C. Szabo

Managing Your Small Business

Keeping on top of receivables, getting the SCORE on exports, and image-building tips for home-based entrepreneurs.

By Bradford McKee

WORKPLACE

The Peaceable Kingdom

Some small-business owners have found a way to create a friendly, casual atmosphere for their customers while also relieving workplace tension and stress.

Their technique: They bring their pets to work.

Curt Rosenberg, owner of Poplar Creek Travel, in Schaumburg, Ill., says he always brings to his office at least one of his bulldogs, which he breeds.

It's usually his dog Lord Jack Daniels that can be found lying about or sleeping unobtrusively in the office. In fact, one of Rosenberg's clients thought Lord Jack was stuffed.

"Ninety-five percent of customers love [the dogs]; they haven't cost us any business," Rosenberg says. "When I get stressed out, I pet the dogs to relax."



PHOTO: DAVID E. SUTTON-PICTURE GROUP

Entrepreneur's best friend: Bulldogs Lord Jack Daniels (foreground) and Miss Penelope lend a casual touch that his travel firm's customers appreciate, says owner Curt Rosenberg, right.

In Burbank, Calif., at Triple Check Income Tax Service, the workplace pets are two kittens that came down from the hills nine years ago and appeared at the firm's back door. The company adopted

them right away, says Ruth Perkins, vice president of operations.

Now Blackie hangs out in accounting or in the reception area, and MC (for Mother Cat) stays in operations, Perkins says, adding that a cat sitting in the office has "a very calming influence."

Brando, a German shepherd from eastern Germany, is the mascot of Road and Show Cellular Inc., a cellular-phone rental firm in Marina Del Rey, Calif.

Says Marc Kreiner, the firm's president: "People love him. Customers come up and bring him bones and gifts."

The dog's presence has caused one small conflict, however: Employees argue over who may walk Brando.

Says Kreiner: "He's the most-walked dog in history."

CASH FLOW

How To Keep Up With What Others Owe You

Having owned Marlborough Florist, in Marlborough, Conn., for 10 years, John Valentine credits much of his shop's profitability to these simple and direct policies for handling accounts receivable. The policies are:

- Record your sales at least every two days. Frequent record keeping may be a burden, but if a customer has a problem with an order, credit slip, or check, you will be able to trace the mishap more quickly if you update your records frequently.

- Send your customers statements by the third day of the month. "The sooner they get the statement, the sooner they're going to pay you," says Valentine. If you send statements so they arrive at the start of the month, he says, the bill is less likely to get lost in the shuffle at the end of the month.

- Assess a minimum fee for charge purchases. Each state has a certain rate it allows businesses to charge for finance

fees. Be sure to collect the fee, says Valentine, to make up for the administrative costs of billing and paperwork, including stamps, envelopes, and phone calls. Valentine sets his minimum finance-charge fee at \$1, but if the finance charge is the only item on the statement, he does not pursue it.

- Be serious with late payers. After 60 days, thank the customer for his or her business but highlight on the statement that the bill is past due. After 90 days, he says, "you don't have to be a nice guy anymore." Valentine says he can tell an honest mistake from an attempt by someone to duck paying. "It's the way they respond" to past-due notices, he says. "Most people who have an honest discrepancy call instantaneously" to resolve the difference.

Valentine also says that in sending notices to late payers, he doesn't bother with special mail services such as a delivery receipt. Most debtors know they can refuse delivery, so the extra cost isn't worth it, he says, "when this customer has cost you a bundle already."

COST CONTROL

The Hidden Costs Of Absenteeism

A new study on employee absenteeism shows that its costs go far beyond payments for sick leave, and it suggests that employers should think of new ways to cut unscheduled absences.

The analysis was conducted by Commerce Clearing House Inc., a Chicago research firm, and by Markowich Consulting Group, based in Huntingdon Valley, Pa.

Direct costs of unscheduled absences—such as paying for sick leave—average \$411 per employee per year, according to the study of 380 companies. However, that \$411 doesn't include:

- Overtime paid to cover unscheduled absences;
- Temporary help to fill in for absent employees;
- Time spent rearranging work schedules;
- Time spent by absentees catching up when they return;
- Decreased morale and productivity

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—Howard Holden, Computer Consultant, Strongsville, OH

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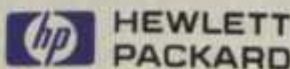
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Circle No. 57 on Reader Service Card

of workers who have to compensate for absentees;

■ Lost revenue from customer dissatisfaction caused by poor service.

M. Michael Markowich, president of the human-resource consulting firm that collaborated on the study, says that the usual allotment of "sick-leave" days and "vacation days" creates a use-it-or-lose-it mentality.

He suggests that allotting a block of paid-leave time is the best way to discourage unscheduled absences. And although some smaller firms cannot afford paid-leave banks, they should consider other ways to cut these unscheduled costs. ■

CUSTOMER SERVICE

A Lifetime Guarantee Made The Most Sense

One paradox of rapid company growth is that a busier business has a harder time keeping in touch with its customers. When it appeared this might happen to Schnee's Boots and Shoes, in Bozeman, Mont., Jean and Steve Schnee took action designed to make the firm's ties to customers permanent: The company guaranteed its footwear for life.

The firm's pledge to replace footwear no matter when the wearer might decide it's unsatisfactory—for reasons such as defects or uncomfortable fit, for example—is a big commitment for a small company to make. Nonetheless, the owners of the 32-employee firm saw the pledge as a way to make sure customers would still receive personal attention even as the store got bigger.

The pledge to customers, says Steve Schnee, "sets the tone for the reputation of the business."

Schnee's Shoes and Boots is a 1992 honoree of the Blue Chip Enterprise Initiative, a program jointly sponsored by Connecticut Mutual Life Insurance Co., the U.S. Chamber of Commerce, and *Nation's Business*. Schnee's was recognized by the Blue Chip program for overcoming difficulties in managing and obtaining financing for its expansion.

Schnee's makes most parts of its shoes and boots, but it guarantees even the parts of the product it doesn't make, such as the soles that are made by another company.

Employee Karen McBee, who handles complaints for the company, says the lifetime return policy helps the company follow any longer-term patterns in product quality and defects.

If someone wears a pair of boots for years and wants them completely replaced rather than merely repaired, McBee says, Schnee's might ask the person to pay a minimal "wear charge." But abuse of the policy is rare, she says. "People are pretty honest. They only bring back things if they somehow have not been given the return they want." ■

EXPORTING

SCORE Helps A Firm Set Up In Europe

When ZINIZ Inc., in Louisville, Ky., suddenly needed to set up shop in Germany, it found free consulting help right in its own back yard—at the Service Corps of Retired Executives (SCORE).

Robert Young, vice president of ZINIZ, says the firm had never done business in Germany when it got a contract last September with United Par-

SCORE, which provides free business-consulting services by retired executives.

ZINIZ reached SCORE volunteer Gerald Ehrlich, a former restaurateur from Germany who ordinarily helps restaurant owners. But when ZINIZ called, he went right over to the company.

"He got together with all my top people," says Young, and using the Munich Yellow Pages, he began calling around. Ehrlich arranged for ZINIZ to hire a welder and various other workers.

He also helped the firm find equipment such as acetylene gas tanks. Then, after assisting the company with its initial contacts, Ehrlich found a translator in Germany to help ZINIZ through completion of the project.

The logistics of overseas work were "a little scary" when ZINIZ first got the job, Young says. Thanks to Ehrlich and SCORE, the job generally went smoothly.

SCORE is affiliated with the Small Business Administration and has 13,000 volunteers at 750 locations nationwide.

For more information on your local SCORE chapter, call SBA's Small Business Answer Desk at 1-800-827-5722, and press "1" and then "3" for more SCORE information.

For more on the various types of government assistance for firms that want to tap overseas markets, see "Paving The Way For Small Exporters," on Page 42. ■



SCORE volunteer Gerald Ehrlich, right, helped ZINIZ Inc. overseas, says the firm's vice president, Robert Young.

cel Service of America Inc. to build a conveyor system in Munich.

Neither Young nor anyone on his staff spoke German, and the company needed help making contacts overseas. "We were grasping everywhere for advice," Young says.

In the firm's search for leads, Young had his staff call the Louisville office of

HOME-BASED BUSINESS

Polishing The Image Of Domestic Enterprises

Entrepreneurs who run their firms from home and for that reason have doubts about their professionalism should take steps to create a professional image that looks businesslike, not homemade, according to specialists in the field of home-based business.

Author and newsletter editor Barbara Brabec, who works at home herself, says that "you have to feel professional before you will look professional," which means having professionally designed and printed business cards, a letterhead, and envelopes.

Brabec, who is editor of the *National Home Business Report*, in Naperville, Ill., says, "Too many [home entrepreneurs] are trying to do these themselves," and

often their attempts are unsuccessful.

According to Toni Bonner, an Ann Arbor, Mich., marketing specialist for home-based firms, creating your own company image for yourself can be awkward unless you have a lot of experience at it.

To begin creating your company image, Bonner says, you should prepare a tag line for yourself. "Who are you and what do you do?" she asks. "Can you say it in 18 to 20 words?"

Seeing yourself as an organization is mostly a leap of faith and an acting role, Bonner says. She speaks of one woman who took over her late husband's business as a manufacturers' sales representative. The woman jumped into the role by answering the home phone and saying, "Could you hold please? I'll be happy to transfer you. . . ." ■

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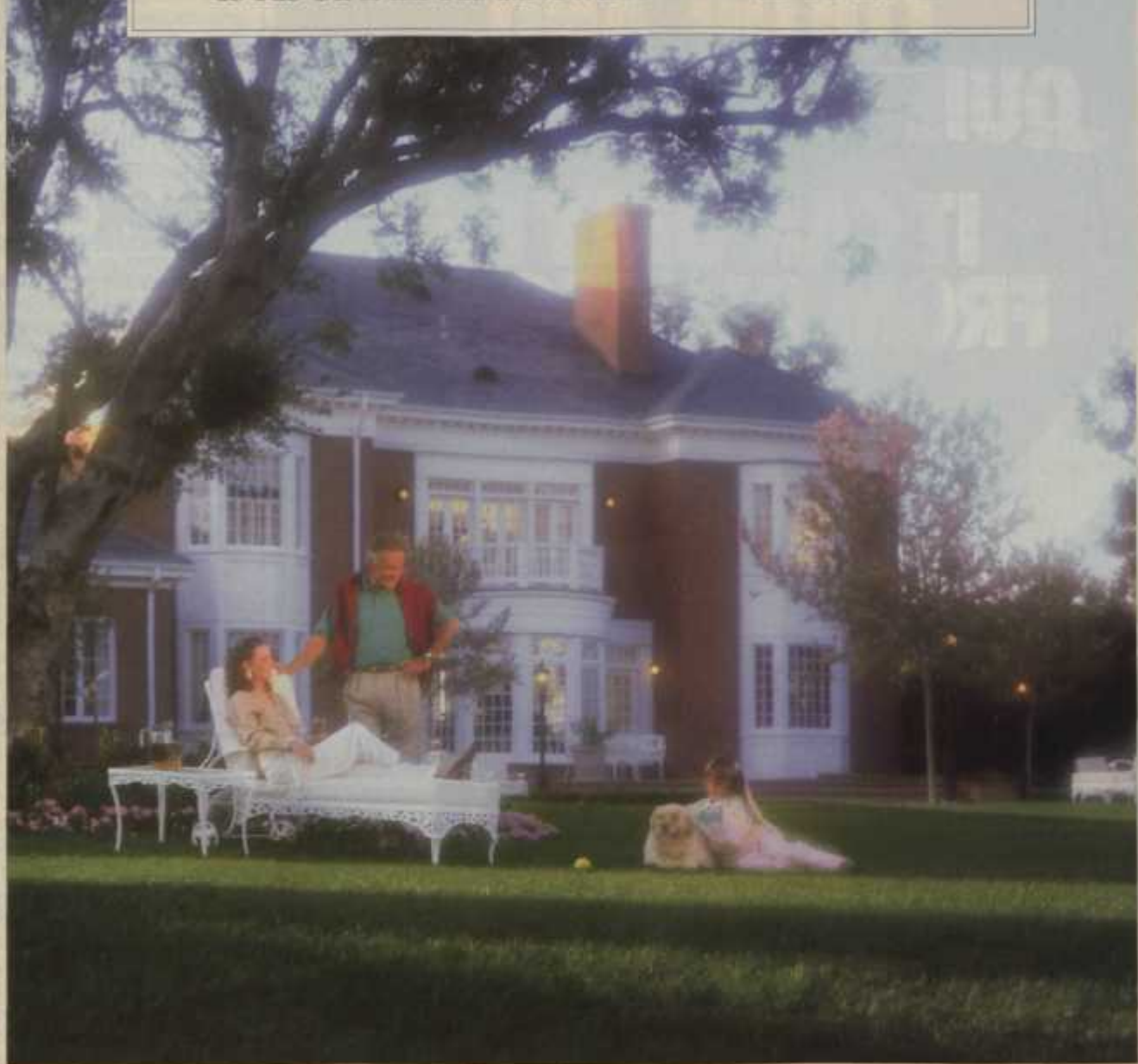
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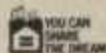


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Making It

Growing businesses share their experiences in creating and marketing new products and services.

Air War For The Fun Of It

By Matt Richtel

It's high noon on a brilliantly sunny day, 6,000 feet above Monterey Bay on the California coast. Two fledgling pilots nervously await Mike Blackstone's radio command. When it comes, they turn their planes toward each other, lower their gun sights, and engage each other.

Their planes turn and bank in a dogfight; radio flak and urgent shouts from their navigators fill the pilots' ears. Minutes later, after several adept maneuvers and a healthy bit of luck, one pilot finds himself behind the other. He steadies the sights and pulls the trigger.

"You got him!" cries the navigator. The enemy plane emits a stream of smoke.

Forget about a trip to the amusement park, or an afternoon spent playing home video games—no matter how big the television screen. This is Air Combat U.S.A. "What we do," says Blackstone, "is as real as it gets."

Blackstone, 44, who works full time as a captain for American Airlines, is the founder of Air Combat U.S.A., a firm that lets adventurous souls play the aerobatic role of Top Gun.

For \$595, an aspiring pilot or thrill seeker gets closely supervised control of a Siai Marchetti SF 260 trainer, the same plane used for actual combat by a number of countries, including Libya and Panama.

There is a critical difference, of course: Instead of bullets, the contestants fire harmless electronic blips at each other.

No flying experience is required, not even a driver's license—just a bold heart and perhaps a strong stomach. Among Blackstone's 4,000 clients have been an

8-year-old girl and a 92-year-old man.

Experienced pilots fly the planes to 6,000 feet and then take on the role of navigator. The clients take over limited control of the steering—but not the plane's altitude or speed—and battle it out in three simulated air fights. The total time in the air—including takeoff, travel to the airspace for the dogfights, and return to the airport—is about one hour.

None of his clients has ever been injured, Blackstone says.



PHOTO: GUY MENDENHALL

At a briefing for clients Jim Cannon (seated left) and Ken Kaiden (seated right), owner Mike Blackstone (standing) and pilot Roland Steadham of Air Combat U.S.A. preview an all-but-real dogfight. In photos at right: Blackstone, and a dogfight in progress.

After a slow start in 1988, in Orange County near Los Angeles, Air Combat began to get media attention, and sales took off. Revenues were running at a \$200,000-a-month clip earlier this year, and Blackstone projects a 1992 total of \$2.8 million.

Air Combat U.S.A. has already begun offering flights in northern California, Las Vegas, and San Diego, as well as Orange County. Blackstone intends to expand his fleet of Marchettis—each costing \$150,000 to \$300,000—from four to 10.



Matt Richtel is a free-lance writer in Los Altos, Calif.

MAKING IT

His business skills have improved markedly since he lost \$10,000 in the early 1980s, selling rides in a biplane. The biplane rides were popular, but Blackstone charged clients only enough to pay for fuel; he forgot altogether about depreciation and capital costs.

On the other hand, the popularity of the biplane business at Fullerton Airport in Orange County did tip him off that he might be on to something.

Blackstone, who is an aeronautical engineer, decided to develop a system that would allow two airplanes to track each other and duel with harmless electronic signals. He sold his biplane, his Porsche, and two condominiums to finance his first two used Marchettis. "Various family members told me I had rocks in my head," Blackstone says. "My attitude was that you haven't failed until you quit."

After four years of research on the tracking system, he acquired a patent and Federal Aviation Administration approval. He also patented a video-camera system for the planes so that clients could take home footage of their dogfights.

"Suddenly there were people all over Fullerton Airport," Blackstone says with a laugh. "It became a real crowd-control problem."

The popularity wasn't only among consumers. Pilots and former pilots began knocking down Blackstone's door, looking for work. He hired and transferred part ownership of Air Combat to Marine Lt. Col. Greg Sloan, who flew 100 combat sorties in Vietnam.

All but two of the 15 other pilots who fly with Air Combat are former military fliers. They are in charge during takeoffs and landings, and they are sitting beside

the clients during the three dogfights, each of which lasts up to five minutes.

The pilots teach combat tactics in an hour-long briefing for clients before their flights. During their post-flight debriefing, the clients watch the videotape while the pilots critique the battle.

Blackstone has witnessed some fierce battles in the skies, including some highly competitive husband-and-wife dogfights. "We've also had some great father-son shoot-offs, where both of them have flown in the military," he says.

For the true novices, Blackstone and his pilots try to keep the battles relatively even. "The first flight we let them go," he says. "Then we give copious amounts of instruction and information to the guy who lost. And for the third flight, we turn them loose again. We don't want anybody getting skunked."

Home, Sweet Hometown Bakery

By Meg Whittemore

When you talk to former residents of Wyckoff, N.J., a semirural suburb 27 miles northwest of New York, and ask them what they miss most about the town, their answers are surprisingly similar: They miss the Wyckoff Quality Bakery.

The memories are rich—flaky, buttery strudel, the World's Finest Cheesecake (customers say it's true), almond Danish rings thick with imported marzipan, and chocolate fudge birthday cakes filled with raspberry mousse and iced with fresh whipped cream.

"We put quality first," says Hanna Kino, who, with her husband, John, started the Wyckoff Quality Bakery 33 years ago. "People are not going to pay our price for less than top quality."

The prices are indeed premium: A Danish ring (coffee cake) sells for \$7.25, cheesecakes range from \$8.75 to \$22. A 10-inch birthday cake with one filling and whipped cream icing is \$36.

But a great many people think the price is right. The Kinos now own and operate four additional bakeries in neighboring towns and counties. The combined sales for the five locations last year were more than \$4 million.

John Kino, now retired, acknowledges that it is Hanna's skill at giving customers what they want that has made the business so successful.

Hanna is involved in everything at the

Wyckoff store. One recent afternoon, she worked the front counter while taking a telephone order from an out-of-state customer; she also checked on the cleanliness of the cake pans in preparation for baking, handled myriad rapid-fire questions from her sales employees, and decorated a layer cake while instructing a customer who had telephoned to ask how to make vanilla sugar.

"I am a heavy-duty person," says



PHOTO: BRYAN ALLEN

New Jersey baker Hanna Kino believes in butter.

Hanna. "My sons and husband think I am crazy, but I think my involvement is important."

The business started in 1959, when the Kinos bought a small Dutch bakery that was for sale across the street from their current location. "We had saved up \$5,000 and bought the business, recipes and all,

for \$13,000," says Hanna. The first thing to go was the recipes. "We couldn't deal with Dutch baking," she says. "It is very lean except for the holiday stuff."

Instead, the Kinos focused on the rich, butter-and-cheese-based baking methods favored by German-Jewish bakers. John handled all the baking while Hanna supervised retailing.

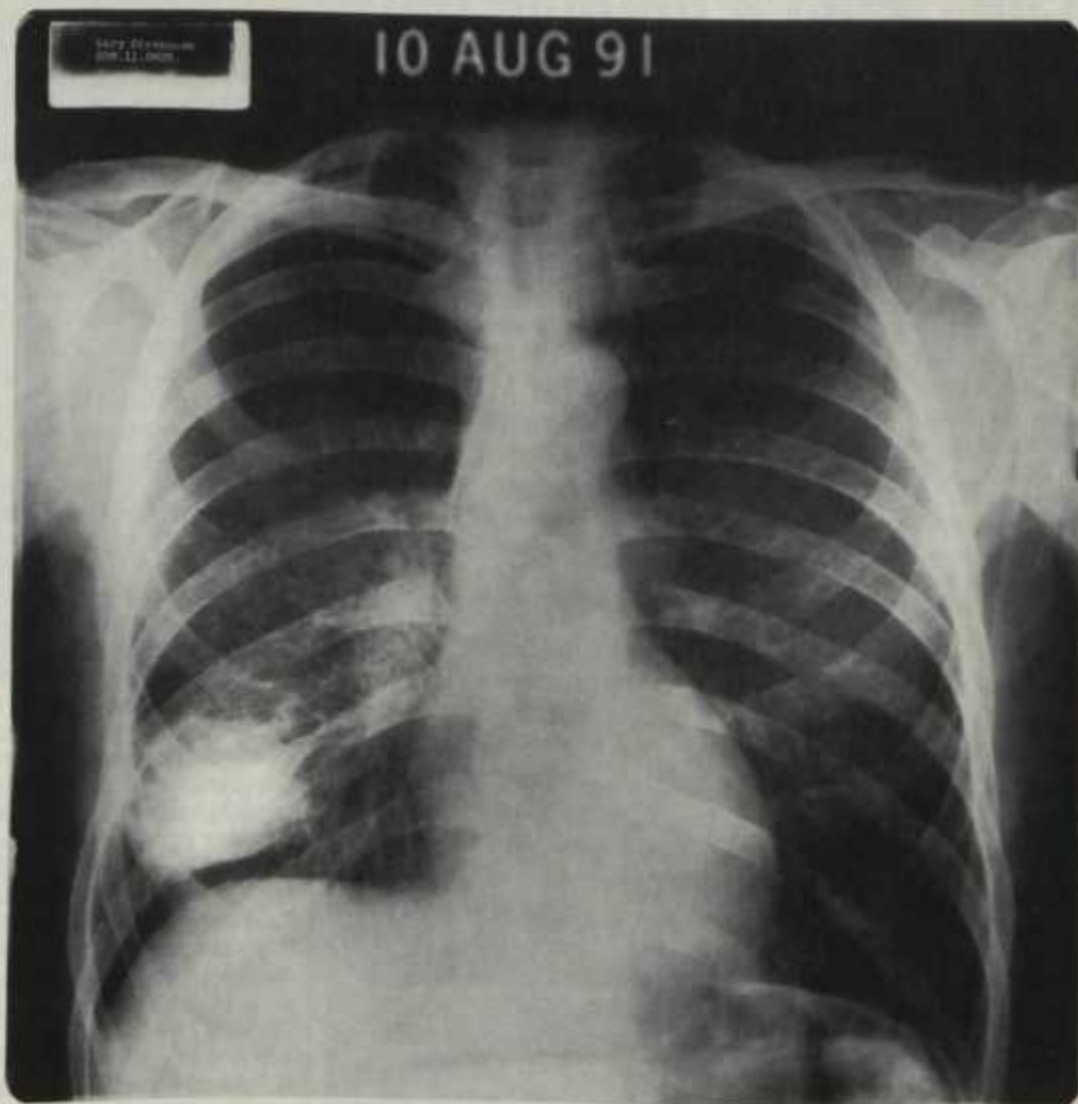
John learned his trade while working for several German-Jewish bakers in northern New Jersey in the 1950s. "They wouldn't share their recipes with him," says Hanna, "so he had to steal them. He would mix them up and then go into the bathroom and write them down."

The Kinos' trademark "baker's dozen buns" (13 sweet rolls) and fresh hard rolls soon attracted a loyal following. Over the years, the Wyckoff Quality Bakery became a fixture in the town. Police officers and postal workers routinely stopped in at 7 a.m. for their daily Danish. Scores of high-school students learned the basics of retail sales and management by working for the Kinos.

As many as a dozen people—all of them specialists—now handle production. "I don't have one baker on the premises," says Hanna, "no one who could make a product from beginning to the end." Instead, there are mixers, an oven person, another who watches the temperatures, a cake icer and decorator, a cleanup person, and so on.

But Hanna watches every step. "I can't not know what is going on in my business," she says. "I don't have a need to do everything, but I have to know about everything."

Now in her 60s, Hanna says she was a female entrepreneur when it wasn't popular. "One of my store managers told me that I was really a woman of the '90s," she says. "I feel very honored by that because over the years I have never stopped thinking young."



Because he works for a small company,
the prognosis isn't good for his fellow workers either.


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employee has had a serious illness.

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To find out more, write: New Approaches to Health Care, The Prudential, 751 Broad Street, 16th Fl., Newark, N.J. 07102-3777.

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A "Doctor" With A Miracle Cure

By Michael Barrier

If you had walked into a certain auto-repair shop in Little Rock, Ark., one recent morning, you would have seen the sort of damage that every car owner dreads: Hailstones had peppered a late-model Nissan, dimpling its gleaming surface with hundreds of tiny dents. The only solution, it might have seemed, would be time-consuming body work, followed by repainting that would inevitably leave the car looking less than new.

Three hours later, the car was well on its way to what was, by comparison, a miracle cure. Already, many of the dents had been removed—without disturbing the paint. In other words, what had looked like a new car before the hailstorm was going to look like a new car again.

particularly receptive customers. Parker Cadillac in Little Rock—the highest-rated Cadillac dealership in the country, as measured by customer satisfaction, for three of the past five years—has called on Dent Doctor for help in removing dents from "hundreds" of new Cadillacs, says Randy Parsley, the dealership's service manager. "I don't know of a single instance when they worked on a car that I haven't been pleased," he says.

Dent Doctor uses what its president, Thomas H. Harris, 45, calls "a secret process" to remove dents. Dent Doctor even manufactures its own equipment, at its training facility south of Little Rock.

Although Dent Doctor targets dents no larger than a silver dollar, Harris says

The salesman said this was no problem, and we could probably have the vehicle within an hour." The Harrisers were skeptical, but the salesman took them to lunch. When they got back, Sanders was just leaving the car, and the dent was gone. "It stuck in my mind," Harris says, "that something had happened that I needed to follow up on."

In the months that followed, Harris and Sanders talked repeatedly about going into business together. "After we got to know each other," Sanders says, "we felt pretty comfortable about it." They incorporated in May 1988 and began expanding slowly, at first just in Arkansas.

Harris had worried about whether Sanders' methods could be passed along to others: "Was he just a one-of-a-kind Michelangelo, or was this something that someone else could learn?" After concluding that Sanders' methods were in fact transferable—they were taught to some new hires—Harris and Sanders began franchising, initially focusing mainly on states bordering Arkansas.

Now there are company stores in Denver and franchises in Florida, Michigan, Virginia, and New Mexico. Sanders, 50, the corporation's vice president, runs the operation in Denver. "It's one of the greatest markets for hail," he says.

Faster growth might seem to be imperative, since competitors have already sprung up in some markets. Although Harris says the company moved into the black last year, Dent Doctor is still a very small operation, with systemwide revenues in 1991 of only \$1.6 million. Dent Doctor's "secret process" is not patented, and it was only last year that Dent Doctor developed some tools that might be patentable. Sanders says that taking out patents would be futile in any event: "There'll be a different version of it, somehow or another. Patents are not really protection from that."

Harris and Sanders—who started with "very limited funds," Harris says—have been thinking about diluting their equity to bring in more capital, but Harris says they will do that only with "the right person in the right situation." He admits that Dent Doctor might be overtaken by a more aggressive competitor, but he says that he and Sanders prefer slow, steady growth with reliable franchisees as opposed to "opening service centers that we can't even manage."

Dent Doctor's corporate offices are only three blocks down Cantrell Road from the dent-removal shop in Little Rock, and Harris says he likes making that short trip away from his office. "I get so wound up in the administration of this company," he says, "that it's refreshing to get back to the shop and see the customers. You know you're in a good business when the customer is pleased to write you a check."



Dent Doctor founders Darwin Sanders, left, and Tom Harris, center, admire a technician's work at the company store in Little Rock, Ark.

The company that performs such miracle cures is called, appropriately enough, Dent Doctor. Eliminating hailstone damage like that on the Nissan requires only a couple of days and costs about 20 percent less than comparable body work, the company says. Single small dents might take an hour and cost \$75 or \$80. Such miracle cures appeal to insurance companies and car owners alike.

Dent Doctor owns five company stores—including the one in Little Rock, its home city—but its real growth is coming through franchising. It started franchising in January 1990 and now has 36 franchisees in 13 states.

Dent Doctor has found new-car dealers

that it sometimes can remove much larger dents. "We're not limited by the size of the dent," Harris says, "but we are limited by the difficulty of the dent—how deep it is, how sharp it is."

Harris himself did not originate the "secret process"; Darwin Sanders, his 50-50 partner in Dent Doctor, did. Sanders, who owned a body shop for 20 years, started Dent Doctor as a one-man mobile operation in 1986.

Harris was a salesman for a cellular-telephone company before he went into business with Sanders. He first became aware of Dent Doctor late in 1987, when he and his wife were buying a new car and discovered "a ding on the right rear door."



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COVER STORY

Ten Key Threats To Success

By Sharon Nelton



PHOTO: KIMBA LEE SCOTT

When her firm was threatened by one of the biggest problems a young company can encounter—growing too fast—Maryles Casto, founder of Casto Travel, temporarily halted new business, then turned her corporate travel agency into a \$70-million-a-year company.

Not long after Maryles Casto started Casto Travel, a corporate travel agency, in the mid-1970s in California's Silicon Valley, business was going great. These were the go-go years, and Casto Travel was located in the heart of a burgeoning new industry: high technology. Her customers were fast-growing wonders bearing names such as Intel and Apple.

Then, suddenly, things went awry at her firm. Too many mistakes were being made. The wrong date on a ticket here. The wrong hotel there. Late deliveries on tickets. Clients were not amused.

Casto found herself up against one of

the biggest threats a young business can face: growing too fast.

That sounds like good fortune, not a problem, right? You'd like to be growing fast, too?

Not if it's going to mean the death of your company. "Business was coming in so fast I couldn't handle it," recalls Casto, a former flight attendant and travel agent who comes from the Philippines. She virtually put the company on hold, declining new clients until she could get Casto Travel on track again. It was a move that kept the firm alive. Today, Casto Travel, based in Sunnyvale, Calif., is a \$70-million-a-year company with 155 employees. With four offices in Northern

California and one newly opened in Washington, D.C., it is still growing, but at a manageable pace.

There are numerous obstacles to business success. And while many of them are external (foreign competition or disasters like the underground flood in Chicago), many others can be laid to the entrepreneurial "personality."

"What entrepreneurs have going for them is chutzpah," says psychologist and business consultant Peter Wylie. "They're willing to take risks where most of us would not. They're willing to lay themselves on the financial line."

But Wylie, in Washington, D.C., and his

Many obstacles to business success spring from the entrepreneurial "personality." Here's our list of the Big 10.



partner, Mardy Grothe, in Bedford, Mass., who refer to themselves as "business therapists," have been inside hundreds of entrepreneurial companies, and they have seen the negatives. Entrepreneurs, they have found, aren't necessarily adept at making a business work or managing people.

For example, says Wylie, many entrepreneurs "don't know about hiring a competent board of outside advisers right from the 'get-go' to give them good, solid, straightforward advice." And often, he says, they don't know how to treat employees or even customers very well.

If you're an entrepreneur and these words make you bristle a little, that's good. "Comfort doesn't provide the answers. I think creative disagreement provides answers," says Richard W. Heath, president and CEO of BeautiControl Cosmetics, Inc., based in Carrollton, Texas.

In fact, *Nation's Business* is a little uncomfortable itself, because we've listed the 10 biggest threats to the success of a small business and we're suggesting ways you can overcome or avoid them.

Every time anyone has the nerve to name the 10 best or 10 biggest or 10 sexiest anything, it's like trying to catch the next big wave. But that's a requisite of entrepreneurship—the willingness to take a risk. So, we dare to set down what we believe to be the Big 10.

You don't agree with our choices? Other knowledgeable people disagree with us, too. (See the box beginning on Page 20.)

Such lists can vary according to the business, the entrepreneur, business conditions, and the weather. The point is, they get us thinking about how we can make our businesses better.

Based on what we've learned from talking with entrepreneurs and experts over the years and in recent interviews, here are our candidates, not necessarily in order of priority:

1 Not knowing how to manage and operate a business.

You may be extraordinarily creative or a high-tech genius, but that's not enough.



PHOTO: GERRIE SPACE-BLACK STAR

"Business therapists" Mardy Grothe, left, and Peter Wylie urge entrepreneurs to get "honest, candid, straightforward feedback."

"Small-business owners also need to develop managerial competence as well, particularly in cash management," according to researchers Rajeswararao Chaganti, Radha Chaganti, and Stewart Malone in their book *High Performance: Management Strategies for Entrepreneurial Companies* (Quorum Books). The book is based on their analysis of 500 small entrepreneurial firms to determine the reasons for their successes and failures.

Lack of knowledge can permeate every area of a business. You will see signs of such a deficiency in every other item on our Big 10 list.

Businessman Allen E. Fishman of St. Louis, the former owner of Tipton Centers, Inc., a consumer electronics company, recalls what a difference it made when he took that company public and had to bring on a board of directors. "If the board had been in place from the start, there's no telling how many mistakes we would have avoided and how much more profitable Tipton Centers would have been," he says.

He turned that discovery into The Alternative Board (TAB), a company that places owners of small and mid-sized businesses in small groups so they can meet monthly to share their problems and

COVER STORY



experiences and give one another guidance. In effect, they serve as board members for one another.

"The objective is to help people who run their businesses do a better job," says Fishman. Members pay \$3,000 a year, but that's less costly than paying for a board, he says.

Through the TAB group he belongs to, Gerald Smith learned that he could increase business for his new commercial cleaning company, Gerald's Dust Busters, in St. Louis, by producing a very simple brochure. A brochure seems like an obvious idea, but Smith hadn't considered it until someone in his group suggested it.

As soon as he started distributing the brochure, Smith says, he began getting 30 calls a day instead of just the two or three he had been used to. That idea alone "paid for itself many times over," he says.

The antidote to not knowing what you're doing, of course, is to recognize

that you need to learn something and go learn it. You can take courses, read books, attend seminars, listen to tapes, get a mentor, or whatever you choose. (Some places to start are listed in the box on Page 28.)

2 Lack of cash.

This problem often goes by other names: poor cash flow, lack of financial savvy, poor money management, underfinancing.

Before you start a business, says New York advertising agency owner Caroline Jones, "you need money or you need clients, but you definitely should not start a business and go out looking for business. Start a business *with* business."

Jones, one of the best-known black entrepreneurs in the advertising world, began to learn this lesson in previous experiences as a business co-founder. So when someone she respected told her she should have the equivalent of \$4 million worth of billings before she started Caroline Jones, Inc., in 1987, she took the advice. She went out and got the clients.

Her agency would earn 15 percent on

the \$4 million, and she figured that would see her and one or two employees through the start-up period. It did, and today the company employs 25 people and bills \$20 million annually.

Jinger and Richard Heath of BeautiControl, a direct-sales company, ran out of cash two years after they went into business for themselves in 1981. The husband-and-wife team had bought the assets of a defunct company with \$60,000 in savings and a \$600,000 note with a big balloon at the end of 10 years.

More sophisticated than many entrepreneurs by virtue of Dick Heath's experience as an executive at other direct-sales companies, the Heaths were able to raise \$2 million from three individual investors for 25 percent of the company. In 1986, they took the company public, buying out their investors and paying off the 10-year note.

"We overcame that [cash] obstacle, and we've been committed to being a debt-free entity ever since," says Dick Heath. "It's worked well. We've been able to do that, I like to think, through good management." BeautiControl's 1991 revenues

Other Views, Other Obstacles

Nation's Business invited three nationally known authorities on entrepreneurship to name their own "Big 10" obstacles to the success of a small business. See how their choices compare with Nation's Business'—and with yours:



Think strategically, form networks, seek balance.

—W. Gibb Dyer Jr.

W. Gibb Dyer Jr., associate professor of organizational behavior at Brigham Young University, Provo, Utah, and the author of *The Entrepreneurial Experience: Confronting Career Dilemmas of the Start-up Executive* (Jossey-Bass, \$28.95):

1. Inability to think strategically. Unless they have a broad understanding of the external environment (including markets, suppliers, and customers) and of what it takes to compete, entrepreneurs cannot develop a sustainable competitive advantage for their firms.

2. Lack of networking. Without an

effective network of support among key suppliers of labor, capital, and raw materials, a new enterprise is doomed.

3. Poor partner relationships. More than one business has failed because partners' relationships have gone sour.

4. Inability to cope with stress. Stress can make it difficult for an entrepreneur to carry out all the important tasks of a business—particularly taking risks.

5. Lack of balance in one's life. Entrepreneurs who neglect family, friends, or other activities that lend meaning to life are often dissatisfied with their careers.

6. Inability to build a team. In today's world, few entrepreneurs can truly go it alone. Without a cooperative team effort, few new businesses can succeed.

7. Low commitment and energy. Those who would like the benefits of owning their own business but who are unwilling to make the sacrifices that are required generally end up failing.

8. Procrastination. If entrepreneurs don't solve the little problems, they can quickly mushroom into big ones.

9. Unethical or illegal behavior. Many

fail because they engage in practices that undermine the confidence of those they do business with, or they succumb to pressure to engage in illegal activities.

10. Lack of vision. Those who cannot articulate the vision of their business to partners, investors, employees, or other stakeholders have great difficulty gaining the commitment and support they need from these key groups.



Look to yourself, get solid information, delegate.

—Harold P. Welsch

Harold P. Welsch, who holds the Coleman-Fannie May Chair in Entrepreneurship at DePaul University, Chicago:

1. Blaming external causes for failure. This is what entrepreneurs often do when they run out of gas, time, and money. But those who look internally, to themselves, are learning and growing and tend to turn their businesses around.

2. Lack of planning. Entrepreneurs are action-oriented and often fail to do strategic or business planning.

were \$58.5 million, and sales could jump to as much as \$75 million this year.

But people who run privately held businesses, says TAB's Fishman, often "do not have the knowledge of the opportunities that are available and the tools and techniques for business financing. They sometimes finance the wrong way or, in many cases, are not able to take advantage of opportunities because they don't know of the financing that's available."

You don't have to become an expert, he says, but you do "have to take responsibility for understanding the basics of business finance."

Caroline Jones also urges restraint. Hire people only when you have the business to support them, she advises.

3 Growing too fast.

As Maryles Casto found, growing too fast means spinning out of control. The quality of the service she was providing nose-dived, and she knew she would lose her clients.

When she temporarily cut off new business, she took the time to look at what was going wrong. She realized that when



PHOTO: STOM EBERHORN-BLACK STAR

St. Louis businessman Allen E. Fishman's company brings small-business owners together in a way that gives them a low-cost alternative to a board of directors.

she started her business, she took enormous care in the hiring process. But when she began to grow so rapidly, she recalls, "I just hired. I was looking for bodies!"

Casto had to face the fact that some of her

hires were mistakes, and she let them go.

She also took a hard look at her accounts and found some were not profitable enough or were too troublesome and had to be dropped. In effect, she was forced to decide what kinds of accounts

3. Inadequate information. The right information—and enough of it—is necessary for making sound decisions. Often, entrepreneurs don't know what they don't know.

4. Lack of a market approach to business. Too often, entrepreneurs are fixed on the product or service that they want to sell. They are not geared toward helping customers solve their problems.

5. Failure to delegate. This creates bottlenecks and decision-making delays in a business.

6. Too many hats to wear. Entrepreneurs are often janitor, salesperson, accountant, administrator, recruiter, supervisor, and market researcher. They get stretched too thin.

7. Inflexibility. Being rigid locks an entrepreneur into doing things a certain way when alternative ways might be more effective. It often means he or she can't play multiple roles well—a necessity during the start-up period.

8. Desire for "instant gratification." Some entrepreneurs buy expensive cars and vacations before their business volume can afford these luxuries.

9. Lack of objective feedback. Too often, entrepreneurs rely only on the opinions of family members and friends.

10. Not keeping current. Failure to

stay up to date with developments in one's industry or in business in general is deadly for entrepreneurs.



PHOTO: GARY TROSTMAN

Women need access to capital and greater acceptance.

—Janet Harris-Lange

Janet Harris-Lange, a Lake Park, Fla., business owner and president of the National Association of Women Business Owners. Her top 10 apply to women entrepreneurs:

1. Lack of access to capital. Most women-owned businesses are in services. The fact that services often lack inventory, equipment, or machinery makes it difficult for these owners to borrow money.

2. Not being taken seriously. Women now employ more than 11 million people and are among the main contributors to the economy, yet a business owned by a woman is often seen as a hobby or diversion.

3. Lack of data on women's business ownership. Women-owned C corporations—which include many of the largest firms owned by women—are not counted in

federal statistics. Lack of information about women-owned firms leads to lack of support for their development.

4. Government mandates. Small-business owners often can't afford to meet the cost of complying with legislation that mandates certain business practices.

5. Lack of access to government business. Opportunities for minorities and women to get government contracts are severely limited.

6. Lack of competent employees. America's workers are often poorly trained by the education system, and many lack basic skills needed to perform necessary tasks.

7. Inadequate access to information technology and markets. It's too costly for most small-business owners to develop their own technology.

8. Lack of education for service-business owners. Most training offered in international trade, marketing, pricing, and the like is geared to manufacturing firms.

9. Poor cash flow. Always a problem for small-business owners, this seems to be getting worse, with customers taking longer and longer to remit payments.

10. High cost of insurance. Liability and health insurance are often beyond the reach of small-business owners, and sometimes such coverage is not available at all.

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she wanted to have and to grow with.

"The most typically underestimated factor in the expansion is the need to add quality people," says Allen Fishman. Most privately held businesses don't spend enough time evaluating people before hiring them, he says.

One way to rectify that is to have testing and hiring done by a competent outside firm.

4 Poor interpersonal relationships.

Entrepreneurs often "just do not have a clue as to how to have a reasonably good relationship with the important people that they have to interact with on a day-to-day basis, whether we're talking customers, partners, or employees," says Peter Wylie.

Not one to mince words, Wylie contends that many entrepreneurs "don't want to pay employees anything. They don't want to pay attention to any of their basic needs. They don't want to sit down and train them and show them how to do things. They don't want to hand out compliments. They break all the rules of good management when it comes to

hiring, training, and really growing and developing employees. And then they say, 'Well, you can't get good people.'"

Although it's important to please the customer, Wylie says, "we know some [business owners] who bend over backwards so much to accommodate the customer that they end up totally overburdening their employees."

But managing personal relationships does not mean avoiding conflict or skirting tough issues.

"We see entrepreneurs who fail because they're too nice," says Mardy Grothe. "They want to create workplaces that have no conflict and where everybody's happy and harmonious, but because they're so nice and so afraid of dealing with conflict, all of the problems just percolate below the service."

In addition, keeping your business successful depends on proper pruning of employees who can't grow with you and on not promoting others who have reached their limit but who can still make a contribution to the firm. You have to "make them feel comfortable about that," says Casto.

What else can you do to get a handle on interpersonal relationships? Getting good feedback is crucial—see No. 10, on Page 26. Relationships are so important to a business and so complex that you may want to bring in an outside consultant to

help you evaluate what's going on in your company and how you can improve things.

5 Lack of strategic planning.

Business owners resist strategic planning because they think they don't know how to do it, can't afford it, and don't have the time, according to Allen Fishman.

However, Fishman contends that such planning is not as expensive as owners may have been led to believe and that it is in fact affordable. "If you're short on time now and if you do the process right, it will be saving you many more hours down the road than you're investing in the process," he says.

"Inadequate planning may result in failure," warn the authors of the book *High Performance*. "Poor planning includes making wrong strategic moves, such as selecting a poor location for business, undertaking unplanned expansion, and poor inventory management."

More than any other activity you engage in, strategic planning puts you in a position to compete effectively and to manage change. It gives you insight into your company and the environment in which you operate.

According to Norman M. Scarborough and Thomas W. Zimmerer, the authors of the textbook *Effective Small Business Management* (Merrill), strategic planning in small businesses involves eight steps: (1) developing a clear mission statement; (2) assessing your company's strengths and weaknesses; (3) analyzing your market; (4) analyzing your competitors; (5) setting goals and objectives; (6) formulating strategic options and selecting the appropriate strategies; (7) translating your plans into action; and (8) establishing accurate controls.

6 Failure to Innovate.

About two years after he started ProLight, a Holland, Mich., company that manufactures energy-efficient lighting systems, Boyd Berends was suddenly faced with a new competitor. It had substantial venture capital behind it and a good-looking product that Berends says was "very competitively priced."

The new company jumped into the market in a big way, and ProLight's sales went flat.

ProLight took action, creating and introducing two new products within a six-month period. The new units led to new growth, and the competitor eventually filed for bankruptcy.

"This experience taught us a very valuable lesson," says Berends. "Never be complacent!"

This year, Berends' company was designated as a state Blue Chip Enterprise in the annual program sponsored by Connecticut Mutual Life Insurance Co., the



PHOTO: © JOHN R. FULTON, JR.

Innovation is one key to keeping a business alive, say Ginger and Richard Heath, founders of BeautiControl Cosmetics, a direct-sales company in Carrollton, Texas.

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U.S. Chamber of Commerce, and *Nation's Business*.

Jinger and Dick Heath believe innovation is one of BeautiControl's major strengths. Just last January, under a service they call "Skin Condition Analysis," they introduced adhesive patches called "Skin Sensors," enabling customers to determine precisely whether their skin is dry, normal, or oily.

"Skin Condition Analysis is basically a Band-Aid gone wrong," says Jinger Heath, who is chairman of BeautiControl. A large pharmaceutical company was trying to develop an adhesive strip that permitted the skin to breathe. What it came up with was not a breathable strip but one that measured the degree of oiliness or dryness of the skin.

Other cosmetic firms many times larger than BeautiControl had already rejected the patch, but when Jinger heard about it, she saw the possibilities of adapting it and packaging and marketing it. BeautiControl bought the rights to it, and, says Jinger, "it has literally been a rocket."

7 Trying to go it alone.

The Heaths are firm believers in building a team. Jinger, with a background in design, brings creativity and innovation to BeautiControl, while Dick contributes financial expertise and management skills. "Jinger looks once at something and sees how the market will gobble it up," says Dick. "I look at it, and I see business problems."

But, says Jinger Heath, "We don't do it alone anymore." As BeautiControl has grown, the Heaths have added other members to their management team—including experts in research and development, marketing, strategic planning, and information technology.

The authors of *High Performance* point out that unsuccessful business owners prefer to do everything themselves: "They are hesitant to let go of things when needed. Success demands a wide range of skills—technical, administrative, and institutional—of owner-managers." Most owners, they say, rarely excel in all three categories. "Ability to steward a new enterprise from infancy to maturity," they say, depends largely on a willingness to hire outside personnel where and when help is needed.

You don't necessarily need a partner, however. In fact, many entrepreneurs report problems with partners. Maryles Casto started with one and soon found that the partner didn't want to grow and was "scared to death of risk." After a year, Casto bought out her partner.

8 Poor communications.

To enlist the commitment of others, entrepreneurs must be able to share their vision. They need to sell goods, services, and ideas to customers. They need to hear the opinions of employees and understand what employees are thinking and feeling. These are just a few of the uses of communication in a successful company.

One of the chief communication skills is listening—"more importantly," says Peter Wylie, "to help another person think out loud."

Another important skill, he says, is "good talking." That means not clear

9 Failure to recognize your own strengths and weaknesses.

Asked what advice she would offer start-up entrepreneurs, Jinger Heath quickly said she would advise them to go to a psychological or industrial counselor who could come up with their personality profile and a picture of their strengths and weaknesses. "Then their next job would be to find their complement. If they've got a right arm, they need a left arm, or vice versa," she said.

The better you know yourself, the better your chance of avoiding problems and nurturing your company to further growth.

Maryles Casto says she is asking her-



Founder of a New York advertising agency that bears her name, Caroline Jones advises that you get clients and business before you start a company.

articulation of ideas but "heartfelt expression of feelings."

The simple lack of an entrepreneur's ability to apologize to an employee or a customer, Wylie says, must cost companies nationwide billions of dollars "in lost business, in employees leaving, in lowered morale."

Entrepreneurs send messages not just with words but also with actions. When the new-car market dropped severely during the Gulf War last year, Robert M. Robinson, president of Bob Robinson Oldsmobile Cadillac Toyota Inc., in Wheeling, W. Va., saw that employees' incomes, predicated on commissions, were drastically reduced.

"We were on the verge of losing our stronger employees," says Robinson, another state Blue Chip Enterprise designee.

Robinson took some steps to shore up their incomes, but he also announced that he would not take a salary until the market came back.

self if she's the right person to take her company to \$100 million in sales. "Or do I need to bring in someone else who has experience managing a large company? To recognize that and learn to move sideways to allow the company to move forward—that's a big step."

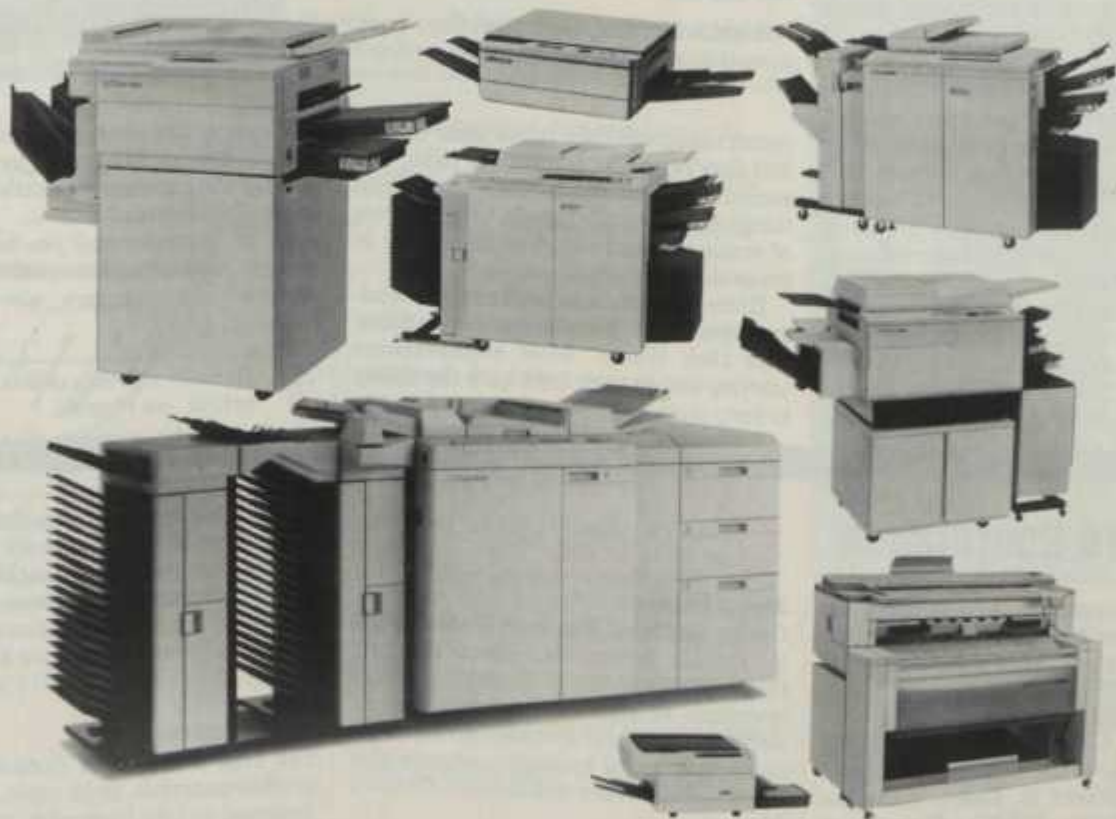
10 Failure to seek and respond to criticism.

Many of the problems listed above can be corrected or avoided with the help of what Wylie and Grothe call "honest, candid, straightforward feedback." For an objective perspective, you can turn to outside board members, old friends who care enough about you to tell the truth, consultants, and peers.

Casto belongs to a nationwide organization of top women executives and business owners called the Committee of 200, and she frequently relies on its members for feedback. Others use groups like TAB or a similar organization, The Executive

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Committee, based in San Diego, Calif.

Grothe and Wylie tell of a client—an entrepreneur who became upset with them when they told him his board members and key employees all had answered no when asked if he “is a good team player” and “is good at handing out compliments.” A month later, the man was still furious, but he had begun to improve his behavior.

When people do give you honest feedback, don't get angry at them, says Wylie. “Listen to what they're saying, and go, ‘Ah ha! I've learned something. I can improve on that. I can grow from that.’”

So, entrepreneurs make mistakes. But those who are smart correct errors before their businesses sink. Entrepreneurs are somewhat like parents, says Mardy Grothe. “When we became parents, did we know anything about raising children?” Entrepreneurs, he says, “are just business examples of all human beings who are trying to do something new. And most people don't know a heck of a lot about what they're stepping into.”

He adds: “One of the nice things about



PHOTO: BRIAN WADDE

ProLight, a Holland, Mich., lighting company headed by Boyd Berends, fended off tough competition by introducing new products.


entrepreneurs is they follow their hearts, and they're willing to take big risks, and sometimes they create these wonderful things that not only benefit them but lots of employees and certainly the society in general.”

Entrepreneurs also have important advantages over their larger competitors, says Dick Heath. “Most entrepreneurs starting out on their own have the ability to keep their ear closer to the ground or to

be closer to the consumer and to define their own niche. They don't have to work through the bureaucracy that's built up in major corporations.”

As an entrepreneur, you may be the biggest impediment to your business's success. But you are also its best hope.

18

 To order reprints of this article, see Page 83.

For More Information

For the entrepreneur who is ready to learn, there are many sources of information and education. Among them:

Books

The Healthy Company: Eight Strategies To Develop People, Productivity, and Profits, by Robert H. Rosen, with Lisa Berger (Tarcher, \$22.95). Focuses on good management of people as the key to profits.

The Entrepreneurial Experience: Confronting Career Dilemmas of the Start-up Executive, by W. Gibb Dyer Jr. (Jossey-Bass, \$28.95). Helps you decide whether you have the personality to be an entrepreneur and guides you along an entrepreneur's career path.

Keys To Managing Your Cash Flow, by Joel G. Siegel and Jae K. Shim (Barron's paperback, \$4.95). Emphasizes how not to go broke while making a profit.

High Performance: Management Strategies for Entrepreneurial Companies, by Rajeswararao Chaganti, Radha Chaganti, and Stewart Malone (Quorum Books, \$39.95). Profiles profitable small companies and examines what makes them successful.

Special Programs

Owner Managed Business Institute, 226 E. De La Guerra St., Santa Barbara, Calif. 93101; 1-800-THE-OMBI. Offers programs to improve business owners' skills and conducts seminars on strategic management and managing organization change. Publishes a newsletter—*Owner's Manual*.

The Alternative Board, 11330 Olive Blvd., Suite 317, St. Louis, Mo. 63141; (314) 991-9555. TAB groups of about 12 business presidents meet for half a day monthly under the guidance of a facilitator. Members share their problems and get the benefit of one another's experience. Businesses range in size from start-ups to over \$100 million in annual sales; groups are set up according to business size. Cost is \$750 quarterly. TAB operates in six cities and is expanding to others.

The Executive Committee, 3737 Camino Del Rio S., Suite 206, San Diego, Calif. 92108; 1-800-274-2367. Similar to TAB, The Executive Committee (TEC) has groups of nine to 14 chief executives who meet one day a month for educational

sessions and to help one another run their businesses more effectively. Members also receive individual coaching from a TEC representative. There are TEC groups in major cities nationwide; members usually have more than \$2 million in annual sales. Cost is \$7,600 a year.

Other Resources

The U.S. Chamber of Commerce offers printed materials, audio tapes, and videos designed to help businesses succeed. For more information and ordering details, see the advertisement on Pages 72 and 73. In addition, a number of *Nation's Business* articles on subjects of particular interest to small firms are available as reprints; for ordering information, see Page 83.

Many local chambers of commerce, such as the Greater Cleveland Growth Association, offer special programs of education and counseling for entrepreneurs.

The U.S. Small Business Administration provides free or low-cost training and counseling through programs offered under its Office of Women's Business Ownership or through SCORE, the Service Corps of Retired Executives. Call your nearest SBA office (check the blue pages of your telephone book).



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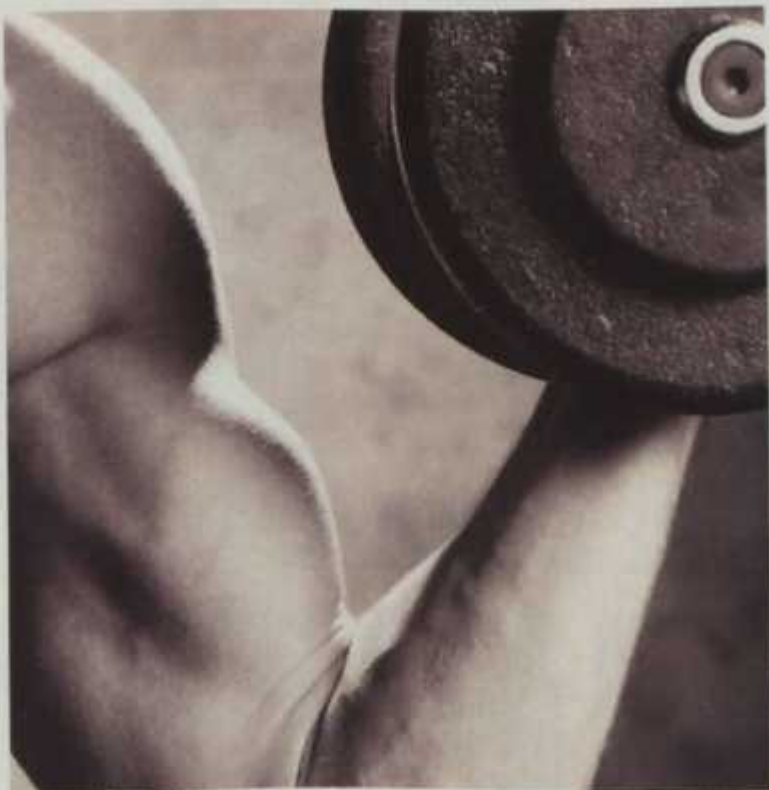


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Disability Rules Target Job Bias

By Bradford McKee

This summer, the Americans with Disabilities Act brings the most sweeping changes to employment law in nearly 30 years—and many employers still know little about them. The changes are spelled out in regulations that take effect July 26 to implement the landmark 1990 disabilities law.

The regulations detail how employers must accommodate disabled employees and prospective employees—how they must interview applicants, make hiring judgments, define jobs, and conduct many other personnel matters.

The rules on employing people with disabilities come six months after the effective date of a separate set of rules concerning how businesses must accommodate disabled members of the public. (See "What You Must Do For The Disabled," in the December 1991 issue of *Nation's Business*.)

Altogether the two sets of regulations fill 350 pages of the *Federal Register*, indicating the breadth of the law for which they were written.

The Americans with Disabilities Act prohibits discrimination against people

with mental or physical impairments. The public-accommodations provisions that took effect in January apply to all businesses that serve the public. The new employment rules taking effect next month will apply for now only to companies with 25 or more employees; companies with 15 to 24 employees have two more years until they must comply. Firms with under 15 employees are exempt from the job-bias rules.

Although the rules have been drafted and discussed during the nearly two years since the law was enacted, and despite a proliferation of how-to-comply seminars by law firms and human-resources consultants, many small firms are only now beginning to explore and decipher what the new employment rules will mean for them.

"We're kind of down at the bottom of the learning curve" on the law, says Sandra Neice, a senior personnel assistant with Cooper Power Systems, a hardware manufacturer in East Stroudsburg, Pa.

Says Richard G. Schenk, president of the Rushville State Bank, in Rushville,

The new regulations for employing people with disabilities will lead to major changes in the workplace. Here is how the rules could affect your firm.

Ill., "It looks like there's a lot of hazy thinking on this."

While advocates of the law hailed it as a breakthrough for the nation's 43 million disabled people, some legal and human-resources experts say the act contains vague wording that will force "case-by-case" interpretations involving many employers in court.

Says Nancy R. Fulco, human-resources attorney for the U.S. Chamber of Commerce, in Washington: "This is the most sweeping piece of civil-rights legislation since the 1964 Civil Rights Act. It is a very big deal."

Under the law, each discrimination complaint will go first to the U.S. Equal Employment Opportunity Commission. The EEOC will investigate the complaint and may take action to correct a problem. It may also give the complainant permission to sue the employer in federal court for punitive and compensatory damages.

Damage awards are capped at \$50,000 against firms with 15 to 100 employees and \$300,000 against larger firms. The caps are the same as those in Title VII of the Civil Rights Act, and Congress is considering removing those caps soon.

The EEOC says it expects there will be up to 15,000 new complaints against employers during the first year that the disability act's job-bias rules take effect, which would be a 20 percent increase in job-discrimination complaints expected during the previous 12 months.

But some legal experts are cautiously confident about the law's application. "I don't believe the law is going to be utilized by people with obvious disabilities unless the employer deserves it," says Michael J. Lotito, an employment-law attorney with the firm of Jackson Lewis, in San Francisco.

One of the best precautions employers can take to avoid dis-



Job accommodations to comply with the disabilities law have not been difficult at Friendly's restaurant in Muncy, Pa., says Manager Nancy Merrick, right, shown with employee Susan Gardner.



PHOTO: T. MICHAEL KEZA

At Sears, Roebuck and Co. headquarters, in Chicago, a voice-activated computer enables Tony Norris, a quadriplegic, to work on plans and budgets for apparel in the Merchandise Group.

crimination suits is to make a "good-faith" effort to comply with the law, according to several employment lawyers.

To make a good-faith effort, employers must know the act's requirements and treat their job applicants and employees accordingly, say legal experts.

Following are the principal elements of the disabilities law and its job-bias regulations for businesses:

Who Must Comply—And When

The new employment rules will take effect July 26 for companies with 25 or more employees. Employers with 15 to 24 employees have until July 26, 1994, to comply. Again, firms with one to 14 employees are exempt from the job-bias rules.

In addition to the employer, anyone who acts on behalf of the firm must also comply. This includes managers, supervisors, employment agencies, or others who perform employment-related tasks such as background checks on job candidates. The employer is responsible for the actions of all these parties.

The rules apply also to labor unions and joint committees of labor and management; employers are not solely responsible for the actions of either, however.

Eliminating Bias In Hiring

Under the disabilities law, employers must guard against a variety of potential legal problems during job recruiting and interviews. Legal analysts say the following point cannot be overemphasized: Employers may not make any pre-employment inquiries about disabilities, absenteeism, illness, or workers' compensation history. That goes for job applications, interviews, and background or reference checks.

Employers need to train their inter-

viewers immediately not to ask what previously have been fairly common questions of job candidates. (See "Interviewing People With Disabilities," on Page 31.)

Some employers ask applicants to identify their disabilities on job applications. "Remove that question," says attorney Lotito. "If the individual files a charge, the EEOC is first going to ask for the application form. The employer is behind the eight ball before he even starts talking."

If the applicant brings up a particular disability, the employer may talk about it but may not ask about other disabilities, legal experts say.

Pre-employment testing to determine job qualifications cannot be used to screen out people because of a disability that is unrelated to the job. Recruiting tests also should be available upon request in alternative formats for prospective employees with disabilities.

Whom The Law Protects

The law defines a disability broadly and in several ways. It says a disability is a mental or physical impairment lasting more than a short time. The impairment must "substantially limit" any major routine living activity, such as walking, speaking, or working.

In addition, the law says a person with a disability may be someone with a record of such an impairment—like a person with a history of cancer that is in remission. The definition even includes someone "regarded" as having an impairment—such as a person with high blood pressure that is controlled by medication, or someone who in the past was misdiagnosed with depression.

Defining and dealing with disabilities that are not obvious—those referred to as

marginal disabilities—is expected to be one of the most difficult tasks employers face under the law, says Susan R. Meisinger, a vice president at the Society for Human Resource Management, in Alexandria, Va.

It is easier to recognize an obvious disability, such as one requiring the use of braces, a cane, or a walker, she says. "But with someone who has stress, is that an impairment of such a level that it's a disability?"

Says Meisinger, "It's hard to get objective diagnostic evidence" to determine some disabilities. For example, she notes, "not all lower-back pain shows up as a slipped disc on an X-ray."

Furthermore, employers must not discriminate against a person who has a "relationship" or "association" with someone who has a disability, such as a friend or family member for whom that person must provide care.

The disability act also protects anyone who formerly abused alcohol or used drugs illegally and has since undergone treatment. Addiction itself is considered to have been a major impairment. Yet an individual who currently uses drugs illegally or is an unrecovered alcoholic is not protected by the act.

Ultimately, the job candidate with a disability must be qualified for the job to be protected by the law. A person's disability is not relevant if he or she does not have the required levels of skill, experience, or education for the job.

Setting Qualification Standards

The disability law establishes new guidelines for employers' job-qualification standards. These standards are the criteria pertaining to education, physical or mental requirements, safety, or aptitude that—apart from a job's essential tasks—successful candidates would be required to meet for employment.

The law allows such standards but requires that they be legitimately connected to the specific job. For example, an employer could not require a candidate to take shorthand dictation if dictation actually is done on the job by transcribing tapes.

Job criteria also must be "consistent with business necessity." This means the criteria must support the essential functions of the job. For instance, a clerk hired

primarily to type and file could not be disqualified for lack of a driver's license, which would be desirable for running occasional errands. The errands would not be considered essential and thus could not be linked to "business necessity."

But an employer could specify that a candidate must be able to lift 50 pounds for five hours a day if that standard relates to the job and is necessary.

If the standards tend to shut out an entire class of people with disabilities, they may not survive scrutiny under the disability law. For example, an employer probably would not be able to rule out all people who have epilepsy from certain jobs involving heavy machinery. Rather, the employer would have to look at a particular candidate with epilepsy individually, without applying general assumptions or speculations about the disorder.

Such "blanket" exclusions may be based on fears that particular disabilities will raise the employer's medical or workers'-compensation costs, or increase absenteeism. The disability law would override these types of standards and require instead an "objective" assessment of an individual's current abilities to do a job well.

Checking For Fitness

Employers who give applicants tests for physical agility before making a job offer—such as checking for the ability to climb trees for a pruning position—still may do so.

However, the test cannot be a medical examination or even seem like one. It must be given to all similar applicants regardless of disability. If the agility test tends to exclude people with disabilities,

San Francisco lawyer Michael Lotito, left, says job applications should contain no questions asking applicants to identify disabilities.

the employer must show that it relates to the job and to a business need.

In some cases, employers may require medical screening of a job applicant to determine whether the applicant is fit enough to take the agility test. This would be done by asking an applicant's physician to answer a "very restricted" inquiry that describes the test. Or employers may condition the job offer on the ability to satisfy the agility exam.

Ruling Out Hazards

In setting health and safety job standards, the employer may require that the candidate not pose a "direct threat" to the individual's own health and safety or to that of others. However, to say that a job candidate would pose a "direct threat," the employer must:

- Show a high risk of substantial harm. The risk cannot be minimal, and the basis of the risk cannot be speculative.
- Identify a long-term, severe, likely, and imminent risk. Perceived risks that are temporary, remote, or improbable do not pose a "direct threat."
- Show that the risk assessment is



PHOTO: STERRY ABE

based on "objective" medical or other evidence that relates to the particular person. The risk determination cannot be based on unfounded stereotypes or fears about a particular—or any—disability.

Employers must try to eliminate risks of harm with reasonable accommodations. But an employer would not have to hire a person who has narcolepsy (frequent and unexpected sleeping), for example, to operate a large power saw if no accommodation could be made to reduce the obvious risk of harm.

On the other hand, an advertising agency could not claim that a candidate with a history of mental illness posed a "direct threat" simply because the job is stressful and might cause the mental illness to return. That risk of harm is

Interviewing People With Disabilities

Employers must make sure that people with disabilities can get to the interview site and participate fully in the process. Job notices and applications should state that those needing disability-related accommodations for interviews should request them in advance.

Here are questions you can—and cannot—ask job applicants:

What You May Ask

The disability act is designed to have employers focus on applicants' competencies, not disabilities. Employers may ask:

- Whether a job task can be performed with or without an accommodation.
- How the individual would perform the tasks and with what accommodations.

■ To demonstrate how certain job functions would be performed, but only if every applicant for the job is required to do so, regardless of disability. If an applicant has a known disability that would seem to interfere with a job task, the employer may ask that he or she show how the task would be performed, even if others are not required to do so.

■ Whether the individual can meet the job's work-hour requirements, provided the hours truly apply to the job.

What Not To Ask

Take the following types of questions off any application forms *immediately*, and instruct your company's interviewers never to ask job applicants:

- Have you ever been treated for the following listed conditions or diseases?
- Please list any conditions or diseases for which you have been treated in the past three years.

■ Have you ever been hospitalized? For what?

■ Have you ever been treated by a psychiatrist or psychologist? For what?

■ Have you ever been treated for any mental condition?

■ Is there any health-related reason that would prevent you from doing the type of work for which you are applying?

■ Have you had a major illness in the last five years?

■ Do you have any physical defects that preclude your performing certain tasks?

■ Do you have any disabilities or impairments that would affect your performance in the position for which you are applying?

■ Are you taking any prescribed drugs?

■ Have you ever been treated for drug addiction or alcoholism?

■ Have you ever filed for workers' compensation insurance?

REGULATION

unfounded speculation and does not constitute a "direct threat."

Medical Examinations—What Is Allowed

No medical examination may be given to a job applicant before the employer makes a job offer. "You can't single out a person who might have problems," says Greg Parliman, partner with the Pitney Hardin law firm, in Morristown, N.J. "That may not be something new, but it certainly warrants a reminder."

Employers still may give tests for the current illegal use of drugs, which is not protected as a disability.

To keep medical exams focused on job-related factors, the employer may wish to send a list of essential job tasks to the doctor conducting the exam.

The employer may condition a job offer on the outcome of a medical exam. And once a job offer is made, the employer may ask the prospective employee questions about past injuries and claims for workers' compensation.

Information about medical exams must be kept apart from the company's personnel files as a separate medical record, for viewing only in limited circumstances.

When candidates meet all the job-related requirements, they are considered qualified and are protected by the disabilities law if they show they can perform the "essential functions" of a job "with or without reasonable accommodation."

Distinguishing Essential Job Duties

To decide whether a disabled job candidate is qualified, employers first must distinguish between job functions that are

essential and those that are peripheral. Disabled applicants or employees may challenge such decisions and argue that an "essential" job task is actually marginal.

There are several ways employers may defend their job analyses in such a dispute. A job function may be considered "essential" under any of the following circumstances:

■ The job task in question is done regularly, and eliminating the task requirement would change the job significantly.

■ The function is the reason for the position. For instance, working flexible hours would be an essential function of a "floating" supervisor.

■ A limited number of employees are on hand to carry out the job function.

■ The job function is quite specialized, and the employee needs certain expertise, such as a foreign-language ability.

Employers may defend their "essential function" judgments by having the requirements of the job listed in a job description that was written before the job vacancy was announced.

"It makes sense before July 26 to go back to all your written job descriptions and make sure they at least list the essential, if not all, functions of the job," says attorney Parliman. "You're going to be in a tough position to prove it was an essential function if you haven't got it listed in the job description," he adds.

If a job candidate cannot perform the essential functions of the job outright, the employer must ask whether a "reasonable accommodation" would help the candidate carry out the task.

Adjusting So Work Is Possible

"Reasonable accommodation" means removing unnecessary barriers to employment. It is an ongoing obligation and may change as circumstances change.

Although an employer cannot inquire about an applicant's or employee's disability, an employer may ask at any time whether the employee needs an accommodation. Generally, however, it is up to the disabled person to ask for such help.

Job candidates with disabilities can refuse any accommodation, even if doing so disqualifies them for the job.

A "reasonable" accommodation is one that does not cause "undue hardship" for the employer; that is, the adjustment does not require "significant difficulty or expense" related to an employer's operations, financial resources, and facilities.

Which Accommodation Is Best?

The EEOC suggests that employers and disabled job candidates go over potential accommodations together and select the one that best suits both their needs.

Examples of job accommodations are as numerous as disabilities themselves. Such modifications may include restructuring jobs or reassigning tasks, changing work schedules, providing qualified readers or interpreters, or letting the employee bring equipment into the workplace that the employer is not required to provide.

At Friendly's restaurant in Muncy, Pa., Manager Nancy Merrick has employed dozens of people with disabilities over the past several years. Most job accommodations, she says, were quite simple. For example, one dishwasher using a wheelchair needed a plastic apron to keep dry

while sorting silverware. She had two other employees who were deaf, so she communicated with them in writing rather than by speaking to them. "Each person was a different challenge," Merrick says. "Each handicap was different. But then I was raised on improvising." In 1986, Merrick received a White House award for her efforts in employing people with disabilities.

If the employer expects an accommodation to cause undue hardship, the job candidate may be asked to help pay the cost. Employers need not provide personal accommodations, such as hearing aids, to employees with disabilities.



PHOTO: SCENES BY BLACK STAR

In a training program at the Marriott Corp. in Germantown, Md., Laurie Axtell of the human-resources department guides the work of Jill Durbin.


Keeping Workplaces Bias-Free

Once a person is hired, the mandate of the Americans with Disabilities Act extends to all areas of employment, including promotions, assignments, training, evaluations, discipline, and firing.

The law covers compensation and benefits and any contractual links between the employer and outside parties. Company functions such as picnics and holiday parties must also be made accessible to employees with disabilities.

Undoubtedly, the legal landscape of the workplace will become much more complicated because of the disabilities law, say legal experts. Never before, they say, has the federal government been able to second-guess employers' decisions so comprehensively. Given the number of lawsuits the act is expected to trigger, employers have little time left to prepare for its many requirements.

Says Paul Tufano, a labor and employment attorney with the firm of Blank, Rome in Philadelphia: "A lot of people will sue under the law just because the employer is ignorant."

 To order reprints of this article, see Page 83.

Where To Go For Help

The following organizations can help employers understand the provisions of the Americans with Disabilities Act and can offer suggestions on ways to recruit workers with disabilities.

Federal Agencies

U.S. Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, D.C. 20507. ADA Helpline: 1-800-669-EEOC (voice) or 1-800-800-3302 (TDD—telecommunication device for the deaf).

This agency enforces employment regulations of the disabilities law. For \$25, the EEOC offers a technical-assistance manual and a large resource directory to help employers comply.

The President's Committee On Employment Of People With Disabilities, 1331 F Street, N.W., Suite 300, Washington, D.C. 20004-1107; (202) 376-6200 (voice) or (202) 376-6205 (TDD).

National Institute On Disability And Rehabilitation Research, 400 Maryland Ave., S.W., Washington, D.C. 20202-2572; (202) 732-5801 (voice) or (202) 732-5316 (TDD).

Job Accommodation Network, P.O. Box 6123, 809 Allen Hall, WVU, Morgantown, W.Va. 26506-6123; 1-800-232-9675 (voice/TDD).

President's Committee On Mental Retardation, Room 5325, North Building, 330 Independence Ave., S.W., Washington, D.C. 20201-0001; (202) 619-0634.

Nongovernment Organizations

American Speech-Language-Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852; 1-800-638-8255 (voice/TDD).

Goodwill Industries Of America Inc., 9200 Wisconsin Ave., Bethesda, Md. 20814-3896; (301) 530-6500 (voice) or (301) 530-0836 (TDD).

National Easter Seal Society, 70 East Lake St., Chicago, Ill. 60601; (312) 726-6200 (voice) or (312) 726-4258 (TDD).

National Federation Of The Blind, Job Opportunities For The Blind, 1900 Johnson St., Baltimore, Md. 21230; 1-800-638-7518.

National Leadership Coalition On AIDS, Suite 905, 1730 M Street, N.W., Washington, D.C. 20036; (202) 429-0930.

National Mental Health Association, 1021 Prince St., Alexandria, Va. 22314; (703) 684-7722.

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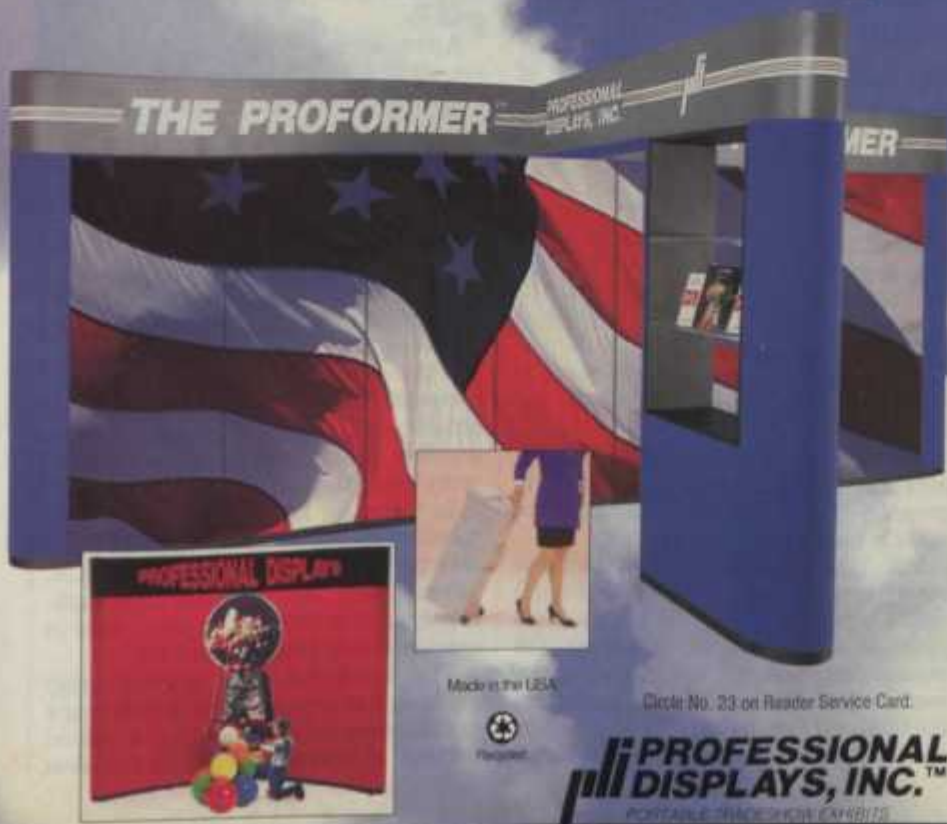
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Learning And Working—Together

By Joan C. Szabo



PHOTO: JERRY WILD

As an apprentice at PMF Industries in Williamsport, Pa., high-school junior Jamie Rakestraw, left, receives valuable training from mentor Terry Koch.

Precision Metal Forming (PMF) Industries, Inc., of Williamsport, Pa., often finds it difficult to locate the experienced metalworkers it needs to run its shop. A small firm with 50 employees, PMF manufactures stainless steel cylinders and contoured hollow shapes that are used in medical equipment and aircraft parts.

To help fill its need for workers, the firm recently joined five other metalworking companies in the Lycoming County area in a new school-to-work transition program. The demonstration project, which is supported by federal, state, and private-sector funds, is designed to give young people training and better preparation for metalworking jobs.

One of the students in the program is Jamie Rakestraw, a high-school junior who works two days a week as an apprentice in PMF's shop and spends three days in classroom instruction at the Pennsylvania College of Technology.

The Williamsport metalworking program, launched last fall, involves six employers, seven high schools, and 12 high-school juniors. The students are working to earn a high-school diploma and to receive transferable post-secondary credits and certification of competence in

entry-level metalworking skills. Rakestraw and the other apprentices also earn a training wage of \$80 a week from their employer.

The Pennsylvania Youth Apprenticeship Program is one of a number of demonstration projects already established or just getting under way throughout the country to better prepare young people for the workplace.

In Oklahoma, for example, the Metropolitan Tulsa Chamber of Commerce and area businesses have helped fashion a youth apprenticeship program scheduled to be launched this fall.

In Detroit, a cooperative-education effort between industry and educators is also helping to prepare students for technical jobs.

Six hospitals in the Boston area are benefiting from a youth apprenticeship program that prepares students for careers in health care.

The U.S. Department of Labor and other organizations have provided more than \$10 million in two-year grants to six school-to-work transition programs. "In most of these projects, the Labor Department only funds about 10 to 20 percent of the total cost," says James D. Van Erden, administrator of the Office of Work-Based

Apprenticeships benefit participating high-school students and the firms that train them.

Learning, in the Labor Department's Employment and Training Administration. "We require the communities and businesses to offer resources because we don't want to fund the program and then have it disappear when the funding stops."

These public-private partnerships are useful in helping businesses underwrite significant training costs necessary to prepare young people for the work force, says Robert Martin, vice president/executive director of the Center for Workforce Preparation and Quality Education, an affiliate of the U.S. Chamber of Commerce.

The partnerships also help bridge the transition from school to work for young people, especially for those who do not plan to attend college. Statistics indicate that about half of U.S. youths do not go to college.

"More and more, the country is realizing that young people who don't go to college need some kind of a training system that encourages learning and earning simultaneously and mixes academic education with applied education on the job," says Anthony Carnevale, chief economist of the American Society for Training and Development, in Alexandria, Va.

According to a recent General Accounting Office (GAO) report, *Transition From School To Work*, many of the young people not bound for college "flounder in the labor market upon leaving school, jobless or obtaining jobs with few opportunities for advancement."

Many of these young people don't enter the work force until they are in their early 20s, and the nation cannot afford that loss of productivity, says Van Erden.

Inadequate school-to-work transition also undercuts the nation's international competitiveness. "In competitor nations, schools and employers typically work together to facilitate youths' work-force entry," says the GAO report.

In Germany, for example, about two-thirds of all young people ages 16 to 19 take part in apprenticeships. In the U.S., however, only about 300,000 individuals, mostly in their late 20s or older, were in apprenticeship programs in 1989.

The traditional U.S. apprenticeship program has been a vehicle for training a limited number of adults for a limited number of openings for skilled trades-

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PHOTO: RICHARD HOWARD

In a work-and-learn program, students from Boston's Fenwick Middle College High School are taught by Dr. Tuan N. Tran at the New England Medical Center.

people. A majority of U.S. apprentices prepare to be skilled craftspersons either in the construction industry or large-scale manufacturing.

But today's public-private initiatives involve the creation of new youth apprenticeship programs, while others involve a cooperative-education effort in which academic and technical courses lead to a certificate or associate's degree in a technical field.

All such programs must have high standards and offer students flexibility,

says the Labor Department's Van Erden. "A young person who decides to take one year of an apprenticeship program can just as easily go back into the college-track plan," he says.

In addition to providing more skilled workers, these new programs will allow participating employers to select employees whose personal characteristics and technical skills are known to them. "Companies know what they are getting into when they hire one of these people because they have been working with

EDUCATION

them for several years," says Stephen Hamilton, a professor of human development and family studies at Cornell University, in Ithaca, N.Y. Hamilton also is director of a newly established youth apprenticeship demonstration project in Broome County, N.Y.

The demonstration projects do not guarantee jobs to young people, but in many instances it makes sense for a company to hire these individuals, Hamilton says, and "gain from the investment a firm has made in the training."

Some states already are planning or implementing comprehensive school-to-work policies for high-school students. Oregon and Wisconsin, for example, enacted legislation in 1991 to establish such policies.

Employers in the metalworking and health-care industries in particular are out front in these new partnership efforts. In addition to these two fields, the new work-based learning programs partially funded by the Labor Department also involve training in the banking, machining, and electronics industries.

While the demonstration projects are developing, the Bush administration has proposed a new initiative, Job Training 2000, to coordinate federal job-training services at the local level. The program would streamline the delivery of federal job-training services into one-stop "skill centers" at the local level.

As part of this effort, the Labor Department would also review the Fair Labor Standards Act to identify incentives and barriers to voluntary youth apprenticeship opportunities.

The U.S. Chamber of Commerce strongly supports the Bush administration's Job Training 2000 plan. "Coordinating all [education] services or programs that are targeted to a specific client is exactly the right kind of public policy," says Martin.

Following are descriptions of school-to-work training initiatives that can offer ideas to business people who want to improve their own industry's work-based learning programs.

Apprenticeships in Pennsylvania

The Williamsport area's youth apprenticeship program in metalworking arose from the concern of area firms that few young people were preparing for careers in the industry to replace experienced metalworkers who were nearing retirement. The apprenticeship program is expected to reverse that situation.

When the program was launched earlier this year, 80 young people were interviewed for the 12 apprenticeships. "We selected students who we felt were motivated and enjoyed making things," says Don Alsted, president and general manager of PMF Industries.

After apprentice Jamie Rakestraw

For More Information On Training Programs

Here are some of the principal sources of further information on preparing young people for the work force:

Jobs For The Future, a nonprofit group in Cambridge, Mass., provides assistance to about 15 experimental youth-apprenticeship programs throughout the United States. The assistance includes feasibility studies and help with program design and implementation, curriculum development, and project evaluation.

The organization's goal is to improve work-force quality in the U.S. It works with the private, public, and nonprofit sectors. Contact Richard Kazis, Director of Work-Based Learning Programs, Jobs For The Future, 1815 Massachusetts Ave., Cambridge, Mass. 02140.

The Tech-Prep Education Program was established by a federal law, the Carl D. Perkins Vocational and Applied Technology Education Act of 1990, to provide federal grants for local work-force training programs. The grants are made to the

states, which then provide funds to local consortia of schools and colleges to institute programs for training young people for technical jobs.

For information on federally funded tech-prep programs, contact your state's vocational-education department or the Office of Vocational and Adult Education, U.S. Department of Education, Washington, D.C. 20202-7241.

The American Association of Community and Junior Colleges is another good source of information on tech-prep efforts. Contact Jim McKenney at AACJC, One Dupont Circle, N.W., Suite 410, Washington, D.C. 20036.

The U.S. Labor Department can supply information on school-to-work demonstration projects that it funds. Write to James D. Van Erden, Administrator, Office of Work-Based Learning, Employment and Training Administration, U.S. Labor Department, 200 Constitution Ave., N.W., Washington, D.C. 20210.



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EDUCATION

completes two years of the program, he will have a high-school diploma and some technical training. If he decides to continue through two more years of training and classes at a local college, he will be eligible for a two-year associate's degree and will have earned prejourneyman status in the metalworking trade. An experienced metalworker can earn \$40,000 to \$60,000 a year.

In addition to the training wage that PMF pays its apprentices in the program, the company has investment costs related to training the students and giving information to teachers on job-related areas that should be covered in the classroom, says Sharon Hoffman, project director for the Lycoming County program.

About 135 additional youth apprentices will be placed at three other sites in Pennsylvania this fall with 66 companies in the metalworking industry. The sites—

system," says Gene Callahan, superintendent of Tulsa County Area Vo-Tech.

Fifteen high-school juniors will participate in the program. Its curriculum includes academic classes, technical training, and on-site company training. Apprentices will earn \$4.25 an hour during their first year in the program.

After two years, successful students will receive a high-school diploma and up to 25 credit hours from Tulsa Junior College. After completing the program, they will receive a certificate of occupational skills that will qualify them for a skilled position in metalworking.

Wayne Rowley, director of new-business development for the Metropolitan Tulsa Chamber of Commerce, says: "Twenty years from now, if we don't do something like youth apprenticeship, we are not going to have industry as we know it today."



PHOTO: ©SANTA FABIO-BLACK STAR

Tool-design apprentice Michael Andrews, right, of Macomb County Community College, near Detroit, with McQuade Industries' computer-systems manager, Brian McBain.

Philadelphia, Pittsburgh, and the York/Lancaster area—all need machinists.

For the future, says Jean Wolfe, state director of the Pennsylvania Youth Apprenticeship Program, "We will probably go into health care next and also expand our metalworking program."

A Chamber Role In Tulsa

"Craftsmanship 2000" is a four-year youth apprenticeship program in metalworking that is to be launched this fall in Tulsa, Okla. The program is sponsored by local industry, Tulsa Public Schools, Tulsa County Area Vo-Tech training schools, Tulsa Junior College, and the Metropolitan Tulsa Chamber of Commerce. The demonstration project "is more or less modeled after the German apprenticeship

Health-Care Training In Boston

Launched in September 1991, Project ProTech in Boston is a work-based learning program that provides high-school students part-time working and learning opportunities in six area hospitals. Eighty-two students from four high schools participate in the specially designed academic classes, after-school jobs, and hospital training experiences.

Four days a week, ProTech students attend classes at their local schools and go to after-school jobs at one of the participating hospitals. On the fifth day, students spend three to five hours at their host hospital in a class and laboratory taught by hospital staff members.

Emanuel Berger, vice president of human resources for the New England

Medical Center, a 500-bed hospital that employs 10 apprentices, says, "We think the program is really the answer to how we are going to prepare kids from the public-school systems for real jobs."

Cooperative Education In Detroit

In the Detroit area, a cooperative-education program is preparing young people for the work force and providing a transition from school to work. Detroit's program, a variation of an apprenticeship program, is generally offered in high schools and in two-year and four-year colleges. The program combines classroom instruction with on-the-job training related to a student's career goals.

Many cooperative-education programs involve a technical preparation model, or what is known as "2-plus-2." Under this approach, community colleges and high schools offer a coordinated four-year sequence of academic and technical courses that start in the 11th grade and end with an associate's degree in a technical field.

At Macomb Community College, in Warren, Mich., just outside Detroit, cooperative-education efforts began three years ago. Most of the program's 100 students are working toward an associate's degree in fields such as automobile body design, metallurgy, electronics, and automotive technology. The students are placed with participating businesses in paid, full-time positions for six months.

McQuade Industries, Inc., also in Warren, recently became a part of the Macomb program. A small firm that designs and manufactures cutting tools for automotive manufacturing, McQuade has one co-op student, Mike Andrews. He is specializing in tool design and works on a design computer at McQuade.

Dinos Karagounis, sales manager for McQuade, says Andrews is doing well, and the firm expects to hire him when he finishes the program. "We would be foolish not to. Just as he has invested his time and efforts here, we also have done the same by bringing him along."

In order to be successful, these demonstration efforts and those that are expected to follow will need the continued support and cooperation of business. "These programs must be industry-driven," says the U.S. Chamber's Martin, head of the Center for Workforce Preparation and Quality Education. "If they don't make sense to the employer, then business will never hire the people coming out of the programs."

But Martin is encouraged by the efforts to date. "What seems to be mushrooming now," he says, "is a whole series of initiatives driven by the private sector that are based on a local economic-development strategy to keep industries growing, producing new jobs, and sustaining those jobs for the long haul." **NE**

Small-Business Computing

A look at the latest in information management, networking, accounting software, and chip upgrades.

By Ripley Hotch

MAIL MANAGEMENT

A Better Look For Larger Mailings

Pitney Bowes, always a leader in the field of mail management, now has put a number of pieces together into a system it calls **Addressright**. It's a PC workstation and laser printer that allows you to manage your mail lists, generate envelopes with nine-digit ZIP Codes, print the USPS bar codes, and print right on the envelope.

Gary Giertz, supervisor in the materials-management department of the Michigan Health Center (a division of Michi-

gan Health Care Corp.) in Detroit, is using the system to centralize mailing for the whole corporation. "Right now, our mailings go out from four or five different locations," he says. "We want to pull out all our meters and mail machines, and take advantage of postal discounts."

If you deal with specialized mailings and large mailing lists, **Addressright** could save you time and money. For information: 1-800-MR BOWES.



PHOTO: DEANITA PARKS-BLACK STAR

Gary Giertz uses a Pitney Bowes mailing machine.

INFORMATION MANAGEMENT

Here's A Twofer With Extras

The accepted wisdom used to be that fax technology was dated and would disappear in time as modems allowed high-speed data exchange between computers. In fact, modem exchanges have so much built-in difficulty that fax has been growing.

Intel Corp., the dominant manufacturer of PC chips, also has been producing fax boards and modems for a long time. Now it is combining the two in a new series of products called (what else?) "fax-modems," which combine both types of board in one. The speed is much higher, and Intel is offering capable software that operates under both DOS and Windows.

The series builds from the highly successful SatisFAXtion series, and it ranges in price from \$129 to \$549 list. The

high-end board is extremely fast and quite easy to use.

One of the major problems for users of fax boards has been the amount of disk space that an incoming fax takes up. It is an image file rather than a document, so it can't be worked with as a word-processing file can be.

Now, Intel's **FAXability Plus/OCR** software deals nicely with that problem. The software not only can manage faxing from within Windows documents but also can convert a received fax image into a usable word-processing format. It also includes a spelling checker to refine the document. It's a simple matter to convert files and dump the space-gobbling image file.

One interesting use of this combination is to send documents you want to input into your system by fax and let the program convert it into a usable document. It takes about a minute per page, which is faster than you could type.

The faxmodem can also detect whether an incoming call is a voice, data, or fax call, and it automatically switches to the appropriate mode. This is especially useful for small businesses that don't receive a lot of faxes and don't have—or want—multiple dedicated lines for each purpose.

The price is quite low; in fact, it's lower than the current, less-capable SatisFAXtion board. Basically, Intel says, you're getting a modem "with fax for free." Intel products are widely available; for more information, call 1-800-538-3373.

WINDOWS

The Bottom Line On Version 3.1

Everybody has had something to say about Microsoft's update of Windows since its official unveiling at the big computer show, Spring Comdex, in Chicago last April. So we offer our own opinion of **Windows 3.1**: Yes, it is worth the wait and the switch. Version 3.1 fixes most of what was irksome in version 3.0, including the all too common UAE messages (unrecoverable application error), many incompatibilities, and often slow performance.

It's easier and faster to install, offers some new utilities, and, possibly best of all, includes TrueType. TrueType, a technology that Microsoft acquired from Apple, makes printing with a variety of fonts easier, faster, and less expensive.

Once Windows is installed, you can instantly access screen and printer fonts for any TrueType typeface. Both Microsoft and numerous third-party types of firms (e.g., Bitstream and Monotype) will be making additional TrueType typefaces available.

In our extensive time using pre-release and final-shipping versions of 3.1, we found it to be much, much more stable to use than version 3.0, with snappier performance and better use of system resources.

The latter point means that you can more easily use multiple programs with Windows 3.1 without the program crashing or telling you to unload one or more programs to continue.

However, Windows 3.1 still requires four megabytes of RAM and a peppy 386 or better computer in order to perform at its best, despite any claims to the contrary on the box.

Software Survey

CTS, a Rockville, Md., publisher of software-evaluation materials, has released its latest survey of 160 accounting-software consultants, who evaluate and rank nine leading high-end accounting packages.

The survey ranks performance, stability, flexibility, ease of use, and support. CTS President Sheldon Needle calls it a "no-holds-barred declaration about the quality of competing products in critical areas."

It costs \$79 plus \$5 shipping and handling. Call 1-800-433-8015.

Personal Finance And Tax Preparation

The three leading providers of personal-finance and tax-preparation software have agreed on a format for exchanging data among the programs.

Although it has been possible for some exchanges, only Meca Software provided ease of exchange from its **Managing Your Money** package to **TaxCut**. Many publishers used the format provided by Intuit, publisher of the popular **Quicken** financial software.

Now Intuit, Meca, and ChipSoft, publisher of **TurboTax**, will use the new TFX link for their packages, and they have

opened up the standard for other developers.

Users will finally be able to transfer data from one program to another without a lot of tedious rekeying.

Doing taxes is never fun, but at least this way it will be a little easier.

An Open System

SBT Corp. has come out with a small-business version of its dBase-language accounting programs called, appropriately, **Small Business Accountant**. Since its whole line uses that public-domain language, moving up to its high-end **Data-base Accounting Library** is simple. The **Small Business Accountant** includes a lot of bells and whistles plus a few unusual features, such as a "business status report," which gives you an up-to-the-minute summary of your business anytime.

You can choose how often you want that report to update.

SBT has a catalog of vertical applications—versions of the program for specific industries—developed usually by vendors outside the company.

The applications use the basic SBT programs in various ways and are arranged by SIC code. You can find pro-



SBT's Small Business Accountant does status reports.

grams, for example, for video stores, medical-office management, hair salons, picture-framing shops, and on and on.

For information on SBT, call (415) 331-9900.

HARDWARE

Looking For Upgrades At The Warehouse

As PCs move toward being a commodity, more buyers are willing to try unorthodox channels to get them. And manufacturers are struggling to find ways to distinguish themselves from other clone makers.

Positive Corp., based in Chatsworth, Calif., has done both: It sells only through warehouse membership clubs such as Sam's and Price Club, and it has introduced a unique spin on the popular chip upgrades now widely offered.

Chip upgrades allow you to buy a certain configuration for a machine and



Positive's computer offers quick chip changes.

then, as a newer, better CPU chip becomes available (or more affordable), to replace the chip without having to buy a new machine. Usually you have to open up the computer case to get at the board, and go through a few contortions to make the replacement.

Positive has put the chip on a replaceable board in a metal "cage," which you can

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change right from the front of the machine by flipping a release lever. Going from a 386SX machine to a 486 machine takes a matter of minutes.

It's cost-effective for the company as well, since the company has to offer only two basic machine configurations and four different replacement boards.

Benno Harris, Positive's marketing director, says one customer has a 386SX at home and a 486 at work, and on weekends he takes his more powerful processor home to use.

Certainly, this is a different kind of portability.

NETWORKING

Linking Machines In Small Offices

Full-fledged local area networks can be expensive and complex to install and maintain. Small offices can rarely afford the initial investment or personnel for a full-fledged network, and so they tend to use "sneaker nets"—employees run from one machine to another with data on floppy disks.

Inexpensive peer-to-peer networks can let you hang up the sneakers. Unlike heavy-duty networks, peer-to-peer networks dispense with a separate PC that manages the network—the dedicated file server. Instead, the network coordinates file exchanges (and some resource exchanges such as printers) among the machines hooked up to it.

Two of the best such networks are **Main Lan Easy**, from U.S. Sage, the parent company of DacEasy, and Artisoft's **LANTastic**. The nice thing about both of these networks, besides the low cost, is that they include everything to wire together the machines.

Main Lan Easy at \$199 (for two machines) works on machines down to the old IBM PC level and requires very little in the way of machine resources. If you have more than six machines, you have to go to the somewhat pricier **Main Lan** networks, which will require a file server. Nonetheless, it still costs less than the \$4,500 you can spend on software, boards, and a file server for a full-fledged LAN. For more information, call 1-800-999-6770.

LANTastic follows much the same pattern, though Artisoft's president, Jack Schoof, says that "it can easily handle from two dozen to 200 users" in a peer-to-peer network.

Each station runs \$99 for the software and one of Artisoft's adaptor cards. With a dedicated file server, the network can go up to 300 users—in truth, you'd want a file server if you got over 50. For more information, call 1-800-TINYRAM.

Software And Services

■ Oxford University Press, one of the oldest and most prestigious presses, is issuing many of its reference works as software. First in the series is the **Oxford Writer's Shelf**, with concise editions of the dictionaries for writers and editors, quotations, and a guide to English usage. Next will be a group of science references.

The series will work on both MS-DOS and Apple machines; it lists for \$119. For information: (212) 679-7300, ext. 7370.

■ We don't know if it's the shape of the future, but Manzanita has packaged its **Business Forms** in a slanted box.

The software produces forms on plain paper out of a laser printer and works by itself or with Manzanita BusinessWorks, DacEasy, Pacioli 2000, or Peachtree III.



PHOTO: HENDON COLE

Business Forms software

At \$149.95, it might be worthwhile for small firms that don't need large quantities of preprinted forms.

Why the slanted box? Because the software is "a whole new slant to saving money."

Another publisher of small-business accounting software, **BusinessVision II**, puts its product in a triangular box. We think this trend is cute, but we have a feeling retailers won't like it much.

■ **WritePro**, creators of the creative-writing program of the same name, have now come out with **First Aid for Writers**, which helps writers of nonfiction as well as fiction. It also helps nonfiction writers start on that Great American Novel.

In an unusual offer, **WritePro** guarantees the program will solve particular writing problems; as a back-up service, it provides the guidance of a professional book editor. The service is free for one year to registered users. **First Aid for Writers** comes in DOS and Mac versions for \$299; call 1-800-755-1124.

■ The ubiquitous fax machine has uses that make it similar to computer communications systems—but simpler to operate. Datafax Communications Corp. has created two "fax-on-demand" services that operate through 900 numbers. One is an **Automated Portfolio Service**, the other is **News-on-Fax**. Price structures vary, but if you have to know and don't want to put in a ticker or deal with personal computers, this may be your service. Call (212) 840-4030.

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INTERNATIONAL TRADE

Paving The Way For Small Exporters

By Albert G. Holzinger

For the past 35 years, go-carts manufactured by the Bird Corp., in Elkhorn, Neb., have provided Americans with a relatively safe and inexpensive means of acting out their race-car-driving dreams. About three years ago, the company's president, Fred Schweser, decided to find out whether he could help satisfy similar fantasies elsewhere in the world.

Schweser turned to Harvey Roffman, a

trade specialist in the Omaha District Office of the U.S. Commerce Department, for advice on test marketing Bird's gasoline-powered vehicles overseas. Roffman suggested advertising in *Commercial News USA*, a monthly magazine published by the Commerce Department to promote American products and services to about 100,000 selected foreign agents, distributors, government officials, and buyers.

Small firms expanding into foreign markets are tapping numerous sources of U.S. government information and advice.

The ad attracted more than 1,000 responses, which enabled Schweser to establish a dozen distributorships—from Japan to the United Kingdom. The distributors proved so effective that international customers now account for 10 to 15 percent of Bird's sales.

Export success stories like this have become increasingly common as growing numbers of small and mid-sized American firms have extended their sales efforts to a world market four times larger than the U.S. market alone.

Obtaining useful advice and information from the federal government also has become fairly commonplace among U.S. entrepreneurs. The Bush administration has been working to integrate and streamline the sprawling trade-promotion bureaucracy to make its programs more accessible and responsive to American firms' needs.

Current statistics support the substantial economic impact of these trends. Overall foreign sales of U.S. products and services increased 7.2 percent in 1991, to a record \$421.9 billion, according to the Commerce Department. Sales of manufactured products rose last year by an even more robust 9.2 percent.

In fact, the U.S. passed Germany last year as the world's leading exporter of goods, according to the General Agreement on Tariffs and Trade, the international organization that monitors world trade.

Stepped-up activities by the Bush administration to support American traders date from May 1990, when the president formed the Trade Promotion Coordinating Committee. Chaired by the secretary of commerce, the panel is composed of representatives of more than a dozen federal entities involved in export promotion.

A key initial goal of the committee was establishment of a center for "how-to" and foreign-market information for business people who seldom or never export. This goal has been achieved through creation of the Trade Information Center.

Callers to the center can obtain export counseling, international market research, trade contacts or leads, sources of export financing, and advice on export documentation and licensing requirements.

Callers also can get details of such trade-related activities as upcoming ex-



PHOTO: GRACEY HAWKINS-BLACK STAR

Advertising in a Commerce Department magazine put the Bird Corp.'s go-carts on the road to substantial sales in foreign markets, says President Fred Schweser.

port conferences, trade missions, and trade fairs in the United States and abroad.

Some of that information is drawn from the new National Trade Data Bank, which is updated monthly. It includes more than 100,000 documents filed by U.S. government employees worldwide. The information is also available by subscription and in many public libraries.

(For more information on the Trade Information Center and related government programs for exporters, see the box below.)

Francine Lamoriello, a senior manager in the Washington, D.C., office of KPMG Peat Marwick, a leading international consulting firm, says: "The general export-promotion services that the Commerce Department now offers are very good. They can be very helpful to companies."

Lamoriello adds, however, that the quantity and quality of information provided by the Trade Information Center can vary widely by country and industry.

Information at the National Trade Data Bank has "good stuff in it" but is not easy to sort through, Lamoriello says. "There is a lot more information in that database than people can figure out how to get at—Commerce employees and ourselves included."

A second major goal of the Bush administration's Trade Promotion Coordinating Committee has been to extol the importance of trade to American entrepreneurs who have never done business abroad. To that end, the Commerce Department and other government agencies involved in trade presented a daylong road show in 30 cities.

About 7,000 business attendees paid



PHOTO: TERRY ANNE

Francine Lamoriello: "Export-promotion services... can be helpful to companies."

\$95 each to hear successful exporters and receive advice from top government officials, frequently including then-Secretary of Commerce Robert A. Mosbacher. One-on-one counseling also was available to participants during the events, which were held in the 12 months ending last November.

Each program was designed to show U.S. companies how their local Commerce Department office and various government programs work together and when and how to use them, says Cydney Louth, a Commerce Department spokeswoman. The substantial interest in the program is

likely to lead to future seminars, she suggests.

But although the federal government has made a promising start toward making its trade aid highly effective and user-friendly, many business people and government employees say that a great amount of work toward that end remains to be accomplished.

For example, the U.S. General Accounting Office studied federal export-promotion efforts from October 1990 through September 1991. During that period, the GAO's report noted, the federal government spent \$2.7 billion for export promotion, approved \$12.8 billion in export loans and loan guarantees, and extended about \$8.6 billion in export insurance.

Despite those totals, the GAO report concluded, "it is unclear whether [that money was] channeled into areas with the greatest potential return" because the money was not allocated "based on a government-wide strategy or set of priorities."

The report also concluded that the "long-term effectiveness" of the Trade Promotion Coordinating Committee—because it is not empowered to reallocate resources among government agencies—"is yet to be conclusively demonstrated."

Although there may be more for the federal government to do in helping firms get established in overseas markets, it clearly has established itself as a useful source of export assistance for small and midsized business owners.

Last fall at a "how to export" seminar in Baltimore, Mosbacher reminded the 250 attendees: "You pay taxes for us to gather this [trade] information. You ought to get it and use it."

Government Services For Exporters

The Trade Information Center can help you mine a lode of U.S. government export-assistance programs and services. The center is open Monday through Friday from 8:30 a.m. to 6 p.m. Eastern time; 1-800-USA-TRADE. (Those who have impaired hearing can call 1-800-TDD-TRADE.)

The trade center's staff members can direct you to the federal entity—in Washington, D.C., or elsewhere—that seems most able to fulfill your export needs. Following is an abbreviated outline of government services. Some are free, others have a minimal charge.

U.S. Department of Commerce:

- Conducts export counseling;
- Provides foreign-market orientation and research;

- Aids in finding overseas agents or distributors;

- Introduces U.S. business people and their products or services to foreign buyers through periodicals, catalogs, and personal meetings;

- Provides sales leads;
- Organizes trade fairs;
- Speeds export licensing.

U.S. Department of State:

- Provides foreign-market orientation and research, especially for countries where no Commerce Department personnel are stationed.

Export-Import Bank:

- Provides loans, loan guarantees, and working capital;
- Writes export credit insurance;

- Conducts a small-business advisory service.

Overseas Private Investment Corp.:

- Provides financing and political-risk insurance to U.S. companies willing to trade or invest in the developing world.

Small Business Administration:

- Conducts export counseling;
- Provides export-related legal assistance;
- Provides loan and financing programs.

A *Directory of U.S. Government Resources*, a 48-page booklet, supplies more details about federal programs and services. It also contains many useful addresses and telephone numbers. The booklet is available from the Trade Information Center, 1-800-USA-TRADE, or the U.S. Government Printing Office, (202) 783-3238.

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SPECIAL REPORT

Insurance Trends Break The Cycle

By Phil Zinkewicz

You are likely to find bargains in casualty insurance, high prices for liability coverage, and more options than ever before.



PHOTO: SCOTT BRUNER—THE STOCK MARKET

Ask an executive of a property-insurance company what market conditions are like today for the buyer of commercial insurance, and the answer is likely to be that market conditions are "soft."

That means a buyer's market, where insurance buyers enjoy a wide choice at bargain rates.

But ask commercial-insurance buyers whose companies are exposed to pollution liability—companies that make paint, for example, or deal with petrochemicals, or have underground storage tanks—and they will tell you resoundingly that the market is "hard!"

You'd get the same view from purchasers of workers' compensation insurance. Like firms facing pollution liability, they would strongly reject any suggestion that there's a buyer's market for commercial insurance.

Actually, there is some truth in the apparently opposing views because an appraisal of the insurance market today depends very much on the needs and perspective of those with whom you are talking, on what type of commercial insurance is involved, and on how exposures to loss have changed.

For companies seeking property insurance—to cover occurrences such as fire,

Fire insurance—like coverage for other calamities that can befall a business—has become more affordable.

theft, machinery breakdowns, and business interruptions—the market is indeed soft. Companies that are deserting automobile insurance for individuals are scrambling for the commercial side of the business to replace lost premium dollars, and thus bargains for such buyers are plentiful.

But the market is either hard or hardening for pollution-liability exposure and for volatile lines such as professional liability, workers' compensation, and coverage of circumstances where the legal system comes into play.

Thus, these questions arise:

■ What has happened to the cyclical nature of the property- and casualty-insurance marketplace, an element that used to lend a certain predictability to the business of risk?

■ Will the overall market remain soft? And if so, for how long?

■ Will those lines for which it is now difficult to obtain coverage ever again become attractive to insurers?

■ What can the commercial buyer of insurance do to guard against a possible return of the cataclysmic hard market of 1984-85?

To fully understand what is occurring

in the commercial insurance market today, one must consider what has happened to its cyclical nature over the past decade.

The cycle traditionally has been based on the "three-years-on, three-years-off" theory:

In a soft market, insurers would compete aggressively for new business, coverage would be available, conditions would be favorable to the buyer, and prices would be low. Relying on gains made in investments, insurers in the past have intentionally underpriced their property/casualty lines during these soft-market times.

Then, in the natural course of events, insurers would begin to experience losses because intense competition had pushed rates too low during the soft-market cycle. They would respond by raising prices or restricting coverage conditions, or both, which in turn would lead to a hard market of about three years.

That on-again off-again cycle began to change during the early 1980s, however, primarily because of outside influences. A soft market for property/casualty insurers existed during the late 1970s. Under the "three-years-on, three-years-off" theory, the market should have hardened by 1981. It didn't.

Interest rates were so high at that time and the quest for cash flow was so great that the soft market persisted for another

Phil Zinkewicz is a free-lance writer in New York.

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three years, leaving insurers competing aggressively for new business and seriously underpricing their products far beyond the cycle. In 1983-84, however, interest rates dropped, the stock market fell off, and insurers' investment income was not sufficient to compensate for underwriting losses.

That situation, coupled with the "lawsuit fever" that dominated the 1980s and

result, "the industry lost market share that it could not regain once it moved back into black ink. The market has remained soft for the past six years because there are more insurers competing after less business."

Donald J. Krutek, senior vice president and head of the Self-Insurance Resource Group of the Johnson & Higgins insurance brokerage firm, echoes Shaffer's

funding mechanisms as a group held steady. Johnson & Higgins and IMR suggest that the pattern will continue.

It is axiomatic that when self-insurance is on the rise, insurers have to compete even more aggressively to sell their products, and that is one reason why the overall commercial-insurance marketplace is soft.

Nevertheless, there are pockets of hardening, and one of them is workers' compensation insurance, where the hardening has only added impetus to the self-insurance movement. Says Krutek: "Much of the increase in self-insurance came in workers' compensation programs, which accounted for 71 percent of all self-insurance growth between 1988 and 1990."

However, self-insurance generally is not an option for companies with fewer than several hundred employees.

"There are distinct reasons why [mid-sized] companies are looking to self-insure their workers' comp," says Krutek. "Rising medical costs, increased claims, and insurance-company assessments have all pushed up the costs of workers' compensation insurance."

According to the Insurance Information Institute, an industry-funded data-gathering organization based in New York, workers' compensation last year accounted for 14 percent of the property-casualty insurance industry's premiums but almost 26 percent of its underwriting losses. Despite the soft insurance market, it is clear that workers' compensation is one area that continues to be a trouble spot.

In other areas, the Johnson & Higgins study showed that the conventional insurance market is far from being totally eclipsed. Property-casualty premiums, for example, increased from almost \$51 billion in 1980 to nearly \$124 billion in 1990. Thus, according to Johnson & Higgins, far from sounding the death knell for conventional insurance, the results of the study indicate a growing sophistication and innovation in all areas of risk financing.

"We're seeing less risk transfer for predictable losses," says Krutek. He continues: "You're going to pay for expected losses over time, whether you are buying insurance, setting up a captive, or going the self-insurance route. The key is to control loss costs—by preventing losses in the first place, managing claims efficiently when you have a loss, and through



PHOTO: GORDON PALMER—THE STOCK MARKET

Corporate directors' and officers' liability coverage is becoming harder to get, largely because the government has been suing leaders of failed thrifts in attempting to recoup losses.

which many believe persists today, led to sharp increases in premiums.

Some increases were as high as 1,000 percent for certain exposures. Some coverages, such as directors' and officers' liability, could not be had at any price. The 1984-85 period was difficult for insurance buyers, and it led to a buyers' revolt, the effects of which the industry is feeling today.

A principal development stemming from that revolt was the movement toward self-insurance, which is a major factor in the current, prolonged soft market for most coverages and in what many believe is the elimination of industry cycles.

"There is no question that today's market conditions can be traced to the horror days of the mid-1980s," says George Shaffer, president of the Insurance Center, a New Mexico-based insurance agency, and an active member of the Independent Insurance Agents of America (IIAA).

Recalling the price increases of that era, he says that the outcome was the proliferation of risk-retention groups and captives—both designed to help companies cut costs through self-insurance. As a

result, Krutek notes that insurers brought about the rise in self-insurance mechanisms.

"Despite a prolonged decline in most commercial-insurance prices, many buyers are abandoning traditional insurance policies for risk-funding alternatives," says Krutek. "Of these, self-insurance has sustained the greatest growth, moving from just over one-tenth of the total property/casualty market in 1980 to one-fifth of the market at the end of last year."

Johnson & Higgins, in conjunction with IMR Corp., a market-research firm, conducted a study that found that although the biggest jump in self-insurance came during the hard-market period of the mid-1980s—it grew 80 percent, from \$17.2 billion in 1985 to \$31.0 billion in 1987—its growth remained strong in subsequent years.

"The biggest message that self-insurance isn't a fad," says Krutek, "is that not only did self-insurance dollars not return to the conventional market when prices eased, they continued to grow."

The study showed that of the \$10.8 billion growth in property-casualty premiums from 1988 to 1990, 57 percent was self-insured. While self-insurance grew 19 percent during that period, alternative

medical- and legal-cost containment. What we've seen is that self-insurance promotes the discipline that makes that happen."

Another area in which there appears to be a hardening of insurance products is directors' and officers' (D&O) liability. This is primarily the result of adverse publicity surrounding the failed savings-and-loan associations and the government's attempts to recoup losses by suing the directors and officers of thrift institutions.

The byproduct of this hardening, however, could be a renewed vulnerability of directors and officers of businesses other than savings-and-loans. The same possibility holds true for accountants' liability insurance.

In fact, insurers see any area where litigation becomes a factor as a line of business where danger abounds.

Reforming the civil-justice system to reduce needless litigation became a White House priority in 1991, and the litigation issue was addressed by Vice President Dan Quayle. Speaking to the American Bar Association at its annual meeting last year, in Atlanta, Quayle offered his own reform package, which was based on a five-year study conducted by the American Law Institute.

Among Quayle's recommendations, which have been criticized severely by members of the legal profession, are the speed-up of the discovery process in litigation, the use of alternatives to the courts such as arbitration and mediation, limitations on punitive damages, and a requirement that the losing party in certain legal disputes pay the opponent's legal fees.

Individuals and businesses spend more than \$80 billion on direct litigation costs and higher insurance premiums every year, Quayle said, and indirect costs may push the total beyond \$300 billion. He added that if a portion of those billions of dollars now spent on litigation were redirected to income-producing areas, American business and eventually the consumer would benefit.

Today's buyer of commercial insurance faces more choices than ever before. On the one hand, the buyer is being wooed by insurers eager to sell commercial-lines products. On the other hand, the buyer has learned that there is no longer any need to be tied to the vagaries of an insurance industry that has lost its cyclical predictability.

But with those opportunities also come potential risks. The very fact that insurers are hurting for new business and willing to compete aggressively for desirable prospects leads one to question which insurers should be chosen when purchasing commercial-lines products.

Experience has shown buyers of commercial coverages that insurance companies writing certain classes of business today may not be there tomorrow. This is sometimes a result of the insurance-industry practice known as "niche marketing."

The term means simply that insurers have decided it weakens their bottom line when they try to be all things to all people.

By narrowing our focus, we believe we can provide specialized products and services for insurance buyers."

Opting for the best price is not always the secure course, especially because many insurers have been running into financial difficulties as the result of heavy investments in junk bonds and real estate. Referring to



PHOTO: QUAYLE PALMER—THE STOCK MARKET

Accountants face difficulties obtaining liability insurance because insurers see danger in any coverage where litigation can be a factor.

So now they are targeting certain markets that they believe will be more profitable.

For insurance buyers, especially those with particularly specific exposures, this trend can be frustrating, however. Insurers that choose niche markets geographically might withdraw from entire areas of the country, with the result that even the good risks sometimes have trouble finding insurance.

In another approach to niche marketing, insurers are going after certain classes of business and specializing in terms of coverages and services. Certain businesses might be well advised to search out those companies that specialize.

For example, the market is soft in liability insurance for architects and engineers because of the depressed conditions in the construction industry, so buyers would be well advised to seek out one of the several insurers or brokers who specialize in this area.

Art Phillips, executive vice president in charge of the specialty-lines division of The Home Insurance Co., says: "We have made a concerted effort to become aggressive in lines of business where markets are shrinking for hard-to-place risks,

the subject of insurer stability, Dennis E. Hoffmann, president of the John Deere Insurance Group, says "the ice is thin and the water deep," meaning that choosing an insurer solely on the basis of competitive pricing in the marketplace can be precarious for the insured.

Hoffmann maintains that insurance buyers should cultivate relationships with their insurers, as should insurers with their customers.

"Stable prices in both soft and hard markets," says Hoffmann, will benefit insureds in the long run.

Robert Hedges, senior vice president for the commercial-lines division of The Home Insurance Co., sums up current market conditions this way: "There is no question that the overall insurance marketplace is soft, except in certain areas. In workers' compensation, for example, there is little or no competition because of rate inadequacies in certain states. There are other patches of hardening as well.

"In this climate, the smarter underwriters in the middle-market segment, who have the ability to judge a risk on its proper pricing based on the individual exposure rather than rating purely by territory or class, can provide a valuable service."

REGULATION

Regulations' Staggering Costs

By David Warner

Rowena Fullinwider's "Wonderful Almond Pound Cake," lemon curd, and carrot jam are not diet foods. In fact, the Norfolk, Va., businesswoman doesn't claim any of her specialty gourmet food items are anything but "good eatin'." New federal regulations, however, will require Rowena's Inc. to spend at least \$100,000, she estimates, to tell consumers the amounts of certain nutrients in each of the company's 30 products.

It's a cost that Fullinwider and other small food makers may be hard-pressed to handle, says Marsha Echols, Washington counsel for the National Association for the Specialty Food Trade. "They have

1990, which resulted in the new rules, will be \$4,000 to \$6,000 per product. The law requires most food products to have labels listing specified nutrients and the amounts contained in each product.

The estimated per-product cost of compliance includes an analysis of the product to determine the amounts of various nutrients, design and production of printing plates for new labels, and printing and application of the labels. If the nutrient content of a product changes over time, reanalysis and new labels are required.

The labeling law is just one of thousands of federal rules governing various businesses and contained in the *Code of Federal Regulations*. In addition, about

The rising costs for business of federal regulations raise questions about how far the government should go.

these agencies is \$13 billion, according to the Center for the Study of American Business, at Washington University, in St. Louis.

The cost of regulations to business is staggering, not just monetarily but also in the degree to which they stifle economic growth and innovation, especially for small companies, according to various public-policy analysts who study regulation. Says the Cato Institute's Lindsey: "The current level of regulation is so high, and so complicated, and so intrusive that it's strangling business and suppressing productivity."

Lindsey cites the lengthy Food and Drug Administration (FDA) process for approving new biotechnology, which, he says, has stymied advances in agriculture. He also notes regulatory restrictions on the telecommunications industry, which he says have resulted in the U.S. lagging behind Japan in the development of fiber optics and high-definition television.

According to Fullinwider, the labeling law will discourage her from developing new products or improving existing ones. "I'm not going to put new products out," she says, adding that "in the gourmet food industry, we are always improving our recipes. I want to [make improvements], but I can't afford to if I'm all bound up by regulations."

Federal regulations cost the U.S. economy more than \$400 billion in 1991, equal to more than \$4,200 per household, according to Thomas D. Hopkins, an economics professor at the Rochester Institute of Technology (RIT), in Rochester, N.Y. Recent, well-publicized examples of such regulations include the Clean Air Act Amendments and the Americans with Disabilities Act, both enacted in 1990. (For more on the regulatory impact of the disabilities law, see "Disability Rules Target Job Bias," on Page 29.)

The new clean-air law will cost business an estimated \$25 billion a year in addition to the \$32 billion that companies already have been spending yearly to comply with the law before it was amended, according to the Environmental Protection Agency. Moreover, the disabilities law will likely cost firms more than \$20 billion a year, estimates Robert Genetski, a Chicago economist and business consultant.

Certainly, there are benefits to having clean air, making accommodations to employ and serve people with disabilities,



PHOTO: BRINK TON

Federal labeling rules will boost food makers' costs, says Rowena Fullinwider, right, of Rowena's Inc. With her is the firm's creative director, Cameron Foster.

fairly narrow profit margins," Echols explains. Fullinwider, for example, says her 16-person company makes from 0.5 to 5 percent profit on about \$1 million in annual sales. In the best year, that's just \$50,000 net profit.

The specialty-food association and other food-industry organizations estimate that the cost of complying with the Nutrition Labeling and Education Act of

65,000 pages of new and modified regulations are published each year in the *Federal Register*, says Brink Lindsey, director of regulatory studies for the Cato Institute, a public-policy research organization in Washington, D.C.

Fifty-two federal agencies employ more than 122,000 workers to administer the nearly 5,000 regulations in effect. The fiscal 1992 federal regulatory budget for

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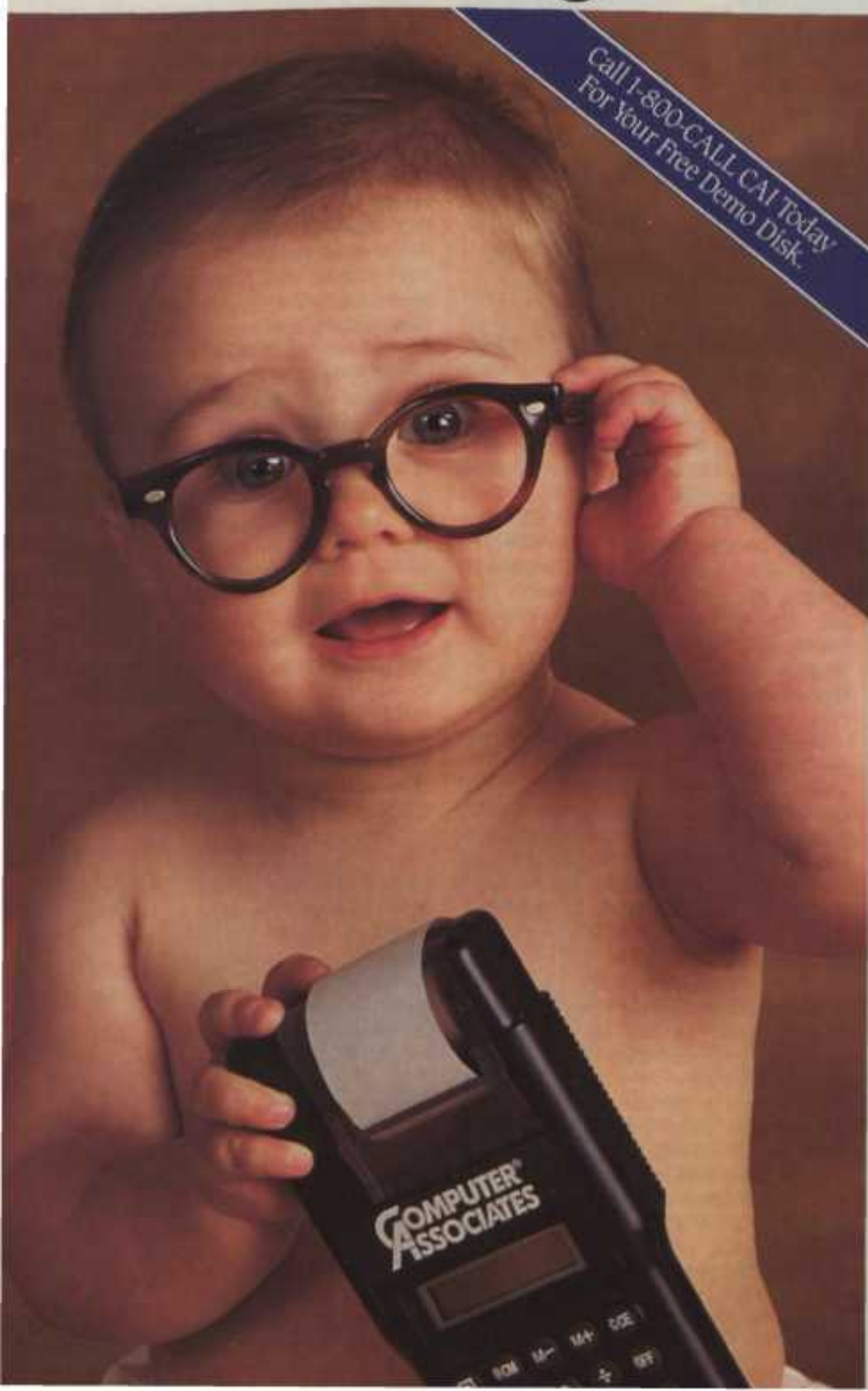
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REGULATION

and giving consumers nutrition information, but business groups and many policy experts are questioning just how far lawmakers and regulators should go in trying to reach those objectives. It's not a question of no regulation vs. some regulation, say critics of federal red tape, but rather regulation vs. overregulation.

"Government regulation is a delicate balancing act between real costs and

cording to the American Bankers Association, government regulation costs the industry between \$500 million and \$1 billion a year. "Because of federal regulations, every day is like April 15 [the tax-filing deadline] for the banking industry," says Christopher Rieck of the bankers' association.

Not only are banking regulations affecting bankers, but they're taking their

pered by U.S. export-licensing requirements.

"There's a tremendous amount of over-regulation in the export-control area," Rennie says, explaining that a separate export license is needed for each potential foreign buyer—just to talk in any detail about his products.

Rennie says the time and effort his firm spends complying with federal export rules—he has a full-time person in Washington "doing nothing but processing [export] licenses"—reduces the firm's pretax profits by 2 to 4 percent.

Business has been questioning the efficacy of federal regulations for years. Ronald Reagan was elected president in 1980 on the promise of getting government off the back of business. For most of his tenure in office, he succeeded, cutting federal agencies' personnel and budgets and reducing the overall cost of regulation from its 1977 high of \$433 billion to \$369 billion by 1986. When Reagan took office, regulations were costing the economy \$418 billion a year. Jimmy Carter actually began the deregulatory movement, cutting rules by \$15 billion from 1977 to 1981.

The federal regulatory machine grew largely in the 1960s and 1970s—the latter decade saw the adoption of more than 100 new sets of rules affecting a broad range of businesses. After a big swing toward deregulation during the Reagan years, the regulatory pendulum swung back to more rules—and more costs for business—in the late 1980s.

Now, there is a concerted effort by business and the Bush administration to rein in federal regulations again.

President Bush announced a 90-day moratorium on new regulations in his State of the Union address last Jan. 28, and he called on agencies to review existing rules to ease the burden on the economy. He extended the moratorium April 29 for an additional 120 days.

"Every regulation that reduces efficiency slaps a hidden tax on the consumer," said the president in a subsequent speech. "From the tab on a bag of groceries at the checkout line to the sticker price on the showroom floor, every American takes a hit when the government overregulates."

In a round-table discussion with reporters on the administration's efforts, Vice President Dan Quayle said the war against regulations would not end at the conclusion of the moratorium. "This is just the beginning of a mission to search and get rid of unnecessary regulations that are harming the economy," he said.

As of April 2, the administration had proposed 50 initiatives to stop planned regulations or amend existing rules, with an estimated potential savings of \$15 billion to \$20 billion a year to the economy,

Regulatory Costs Per Household

(In 1988 Dollars)



Source: Thomas D. Hopkins, Professor of Economics, Rochester Institute of Technology, Rochester, N.Y.

CHART: DEBORAH J. HUMPHRIES

expected benefits," says Lawrence A. Hunter, vice president and chief economist of the U.S. Chamber of Commerce. "Unfortunately, the scale today has become tipped against business—particularly small business—and economic growth."

The Chamber is serving as a clearinghouse for information on regulations that are particularly burdensome to business. (For details, see "How Do Federal Rules Affect Your Business?" in the May issue of *Nation's Business*.)

The benefit of the nutrition-labeling law, for example, is a public more informed about what it eats. But the cost could be the demise of small businesses, such as Fullinwider's, that cannot afford to analyze and relabel their products each time they change slightly. The Food and Drug Administration has indicated that it will periodically analyze companies' products to ensure that label information is accurate. Companies not in compliance will be fined.

Federal rules are so pervasive in the banking industry that J. Christopher Warner, president of 1st Washington Mortgage Corp., in Herndon, Va., has one employee who spends virtually all day reading the *Federal Register*, the *Congressional Record*, and legal documents and opinions to stay current on changes and additions to the banking laws.

Since 1987, Congress has passed laws that contain more than 40 regulatory provisions affecting bank operations. Ac-

toll on borrowers too. Excessive regulation of banks has been blamed for the current credit crunch and high housing prices. "The problems in the banking regulatory [area] probably add 5 percent to the cost of a house," says Clarence Kettler, president of Kettler Brothers, a residential builder in Montgomery County, Md. To illustrate his point, Kettler cites higher bank reserve requirements, which tie up money and thus cause lending institutions to charge higher interest rates to builders, who in turn must raise house prices.

Perhaps in no other regulatory areas has the federal government been more active recently than in health, safety, and the environment. Spending on health, consumer and job safety, and the environment make up 79 percent of the 1992 federal regulatory budget, according to the Center for the Study of American Business. Hopkins of RIT says environmental regulations alone accounted for more than a quarter of the \$400 billion regulatory impact on the economy in 1991.

In addition to costing money and quashing economic growth, critics say, many regulations have other adverse, even counterproductive, effects. An important area where regulations seem to be having an adverse effect on U.S. goals of increasing exports and boosting U.S. companies' competitiveness is in export licensing. John Rennie, chairman and chief executive officer of Pacer Systems Inc., a Billerica, Mass., maker of technical instrumentation, says his attempts to expand his overseas markets are ham-

according to the White House Council on Competitiveness, which Quayle chairs.

In keeping with the regulatory-relief efforts, the Department of Labor implemented new rules for the Davis-Bacon Act that will allow companies working on government-financed construction jobs to pay "helpers"—low-skilled or unskilled workers—less than the prevailing or union wage in an area.

Also, the Securities and Exchange Commission increased to \$1 million from \$500,000 the amount of capital small companies may raise through stock offerings without registering with federal or state authorities.

The administration also is taking steps to reduce some export controls.

Other proposed regulatory changes would reduce restrictions on the natural-gas industry, biotechnology products, pesticide use, drug approvals, the payroll-tax system, and financial institutions.

The administration's efforts have come to the fore primarily because mechanisms for ensuring that regulations are rational have been ignored by agencies or by Congress. "The tools exist to make regulations reasonable," says Lorraine Lavet, director of human resources, legal, and regulatory affairs for the U.S. Chamber. But lawmakers and regulators, playing politics or making power grabs, often circumvent the laws that were designed to make federal rules rational, she says.

One of the best-known tools is the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA). All major federal rules are required to go through OIRA before they are finalized to determine the regulations' paperwork burdens on business and their costs and benefits.

Created by the Paperwork Reduction Act of 1980, OIRA helps save business an estimated 600 million hours and \$6 billion annually in paperwork costs, according to OMB. But since 1989, the agency has

become less effective. The U.S. Supreme Court held in 1990 that OIRA may review only those regulations requiring disclosure of information to the federal government, not those requiring disclosure to third parties. This effectively cut OIRA's jurisdiction over federally required paperwork by one-third.

Moreover, Congress has not reauthorized the paperwork-reduction law or confirmed a new administrator. OIRA has been operating without an administrator since 1989; it operates under OMB's budget.

A law designed specifically to give small firms regulatory relief also has been largely ignored, says Rep. Andy Ireland, R-Fla., the ranking minority member on the House Small Business Committee. The Regulatory Flexibility Act of 1980 requires agencies to report on the impact on small businesses of proposed rules and to devise alternative regulations if the regulatory burden would be too great. "I think it is high time [agencies] started fulfilling their obligation to small business under the law," says Ireland.

Two executive orders to curb regulatory excess issued by then-President Reagan also are mostly disregarded. The executive orders direct agencies to provide OIRA with information on the costs and likely impact on business of new regulations.

The administration's Council on Competitiveness has started to put pressure on agencies to heed the presidential directives, as well as the Regulatory Flexibility Act, according to the council's executive director, David McIntosh. The council also is backing reauthorization of the Paperwork Reduction Act, which would strengthen OIRA and mandate quantifiable reductions in paperwork, and council members are calling on Congress to confirm a new OIRA administrator.

In addition, the White House is supporting legislation sponsored by Sens. Don Nickles, R-Okla., and Harry Reid, D-Nev., that would require all proposed legislation and regulations to be accompanied by economic-impact and employment-impact statements.

Nickles told *Nation's Business*: "The regulators, from both the legislative and executive

side, have been overzealous; they haven't looked at the real economic impact [of regulations]. We have to change that.

"If people were aware of some of the costs of legislation, they wouldn't allow the legislation to go forward."

Says Reid: "I believe we, as legislators, and the president, as chief executive, do a



PHOTO: ERICK FRIEDMAN—BLACK STAR

John Rennie, chairman of Pacer Systems Inc., says excessive rules hinder his export efforts.

disservice to the people of this country by passing laws and not affixing to those laws prior to their enactment how much they're going to cost."

Much of the recent focus on federal regulations has been on their costs and the remedies for excessive regulation. Often overlooked is the fear and frustration business people experience in trying to deal with the multitude of government regulations.

"I'm spending all of my time dealing with [regulations] instead of trying to do a better job for my customers or a better job of producing houses for less money," says home builder Kettler.

It may be that fear and frustration—more than anything else—that is stifling business growth, says RIT's Hopkins.

"When a business person has to spend time figuring out the compliance routine and what he's got to do, it just saps the effort that otherwise could be going into strategic planning or just running the business," Hopkins says. "There are just not enough hours in the day to handle all of the regulatory requirements and really do justice to the ordinary business-planning activities of the firm."



PHOTO: JERRY ABE

Sen. Don Nickles advocates economic-impact statements for all proposed legislation and regulations.

FAMILY BUSINESS

How To Create A Family Council

By Dennis T. Jaffe

One of the best ways to move your family business forward is to establish an ongoing family council.

Consider Stanley Rogers (not his real name), who founded Rogers Manufacturing after World War II. It has grown through acquisitions into a \$300-million-a-year enterprise.

Stan used to be a classical entrepreneur—he ran the business himself, and his family had no role. A decade ago, several events changed all that.

First, Stan had a heart attack, and it took him several months to recover. Second, after business school and several years at another company, Nick, the oldest of the five Rogers children, asked to join Stan's business. Then daughter Betty, who had a marketing background, also asked to join.

Both children began to wonder what they could expect—that is, how ownership would be passed on to the family. The other children and their spouses were also concerned. The uncertainty made it hard for them to plan their futures.

Stan faced strategic decisions in the business as well. Revenues were good, but his products were in a maturing market, and he had to consider borrowing for product development and plant modernization.

With family members now coming into the business, his key managers wondered how they fit into future plans. Stan didn't want to lose his nonfamily talent. He felt everybody was looking to him, but he didn't have the answers.

Stan and his family began to work with a financial consultant, initially about estate and tax planning. But the scope grew. The consultant asked Stan questions he couldn't answer: What kind of life do you and your family want to lead in the future? What is most important to you and your family? Who will own the company? What would happen if you died suddenly? How can you be fair to all family members? How much do your wife and heirs know about your business and financial affairs?

Like many business founders, Stan had not thought about such things, and he

regarded it as wrong to talk to his family about them. But the heart attack led him to reconsider.

As a family-business consultant, I helped Stan initiate a series of family meetings. Stan and his wife, their children, and the children's spouses came together for a two-day retreat, where each talked about how he or she saw the future, what each wanted, and how each viewed the business. It was one of the

policy, and direction. It is the vehicle for addressing and exploring family concerns that influence the business and the family.

As the Rogers' situation suggests, family businesses create too many complex issues for the family to leave to the will of one person. Many issues that seem like pure business matters can be resolved only by the family. Investing in a new plant, for example, promoting a nonfamily manager to CEO, or selling or splitting



ILLUSTRATION REBECCA LEE

most moving and powerful events in the family's history.

Though not a very reticent family, the Rogerses had not taken the time to talk deeply about the things that mattered most to them: their caring bonds, their goals and desired futures, and how the business fit into them. They shared feelings about values, and they talked about some of the uncertainty they felt about inheritance, ownership, and the future. There were some jealous feelings expressed about the fact that Jim, one of the sons-in-law, had joined the company and whether that meant he would inherit a share of ownership.

The first retreat didn't settle anything, but it opened up a doorway and led to a planning process for the family members. They decided to keep in regular communication about family and business issues and to meet monthly in a family council.

A family council is the organizational and strategic planning arm of a family, where all members meet to decide values,

the business all have an impact on the family.

In most family businesses, such issues are decided informally and secretly. A family council makes these decisions open and explicit. Many families mistakenly feel that the best way to promote harmony is to avoid discussion of upsetting topics. By establishing a council, a family recognizes that very few issues get resolved by ignoring them.

The council is also an acknowledgment that old-fashioned patriarchy is dead. Father can no longer unilaterally decide everything of importance for the family. More participation, openness, information sharing, debate, and democracy are needed in today's complex family environment.

A family council provides a means for deciding the business's role in society; every family is judged personally by what its business does in the community. A council also provides an opportunity to explore how the family uses its wealth and

Dennis T. Jaffe is a family-business consultant in San Francisco. This article was excerpted with permission from Working With the Ones You Love, by Dennis T. Jaffe, Ph.D., published by Conari Press. All rights reserved.

Policy-making and other complex family-business concerns can be too burdensome for just one person; a family council spreads the tasks and improves the results.

provides for all its members. How will that wealth be passed on to the children? How can the parents live when they are retired? What portion of the wealth should be returned to the community? What values does the family want to express through the power and influence of its investments?

A council usually meets regularly, most often once a month for an afternoon or evening. It may include a weekend retreat

The convener needs to do much more than just set a time. People want to know what will happen and what they are expected to do. They will probably be somewhat anxious or concerned about what can be said and the possibility of unresolvable conflict. The retreat should not be a presentation by an expert, nor simply a recitation of Dad's plans for the business. It is a participatory gathering. Each individual needs to prepare, and

respectful participation in a forum to discuss common issues.

For the first retreat or two, most families have found it useful to have an outside person, such as a family-business consultant, as a "facilitator." This individual is in charge of the process of the meeting, making sure that the meeting keeps flowing, that every individual gets to contribute, that people listen to one another, that one person doesn't monopolize the discussion, that the conversation stays in focus, and that what is said is recorded and preserved.

I suggest that by the third meeting, the family take on the role of facilitator, rotating it from one family member to another at subsequent meetings. The facilitator takes responsibility for coordinating planning, setting agendas, helping focus and coordinate the meetings, and following up. The facilitator role is a great teacher for developing heirs and for family members who want to get more involved in the family's business.



once or twice a year, especially when family members are scattered around the country and must fly in for meetings.

The council is the focal point for developing and implementing three types of planning:

- Individual plans that help each member of the family determine his or her own goals and balance the needs of each with the family's and business's needs;
- Family plans, in which participants determine the overall goals of the family and the resources needed to achieve the goals;
- Business plans, which address such issues as ownership and management control, family involvement in the business, and strategic direction.

The best way to start a family council is away from home at a retreat lasting a few days. Going away underscores the special meaning of the event and gives family members a place apart from everyday pressures and time to reflect on their thoughts and feelings.

everybody needs a chance to contribute to the agenda and the ground rules.

Start with a planning group. If the family business consists of only one family of parents and children, the planners can be the whole family. The planners draw up objectives and gather information from other family members. They listen to concerns and ask about issues that need to be addressed. Larger families send around a survey and collect written responses from each.

Every family member over a certain age should participate. Children from 12 to 16 are often not included, but in my experience, they are often curious about the business and are beginning to think about their future. So make them welcome.

Sometimes members from far away, or those who feel distant, are reluctant to participate. They may feel that the council is an attempt to force them to be "closer." They need to be reassured that what is being asked for is their caring and

Here's what might happen at your retreat:

Everyone receives a copy of the agenda. The meeting room contains flip charts, wall space to display notes and ideas, and pillows or chairs arranged in a circle so everyone can see everyone else.

Meetings are scheduled for certain times, one session in the morning and a shorter session in the afternoon, leaving plenty of free time. So that family members feel free to express themselves openly, ground rules about behavior should be set at the start and displayed in writing on the wall. For example: no interrupting, no sarcasm, no blaming; all information and issues should be shared openly but be kept confidential within the group; decisions will be made by consensus; and so on. The retreat should provide a safe setting in which to talk about difficult topics.

While information can be shared about estate planning and the organization of the business, care should be taken so that the retreat is not simply an information-sharing meeting or a presentation by the business owner. Presentations should be kept short and always should be followed by discussion.

By the end of the retreat, the family should have begun to create a series of

FAMILY BUSINESS

documents that will be made available to everyone. These might include:

A family-business history. Sharing this history is a powerful and important start to a family council. The parents or the grandparents talk about how and why they formed the business. Talking on their own or with the help of an interviewer, they focus on questions such as what their dreams were, how they got started, where their first money came from, what stages the business went through, and how activities that have become traditions were born. The story should be recorded on videotape as a way to preserve the family heritage.



A values credo. The essential task of the family's self-examination at a retreat is to explore its values. Values say what the family and its business stand for. They guide behavior and offer meaning and purpose to the family and its enterprises. A family that values personal freedom and autonomy, consistency, loyalty, and equal-

ity will transfer those values to its business dealings.

A mission statement. A mission statement sets forth the core purpose of the family and of the business. You may wish to draft separate statements for each. Keep in mind that you can't design it in one meeting. Come up with your first draft at your first retreat. Then take a month to think about it and propose changes.

A mission statement should be short—not more than 100 words—and it should be emotionally moving, or, as my partner says, "give you goose bumps."

Here is a statement that combines the family and business mission:

"Our business is about service—to family, to employees, to customers, and to the community. We want to grow ourselves, and we want our company to grow, in order to provide a secure 'home base' for everyone. A thriving business will create opportunities for growth, community involvement, and fulfillment for everyone, family and employees alike."

The retreat is just a first step in developing a council as an ongoing entity to help the family realize its dreams and goals and to help each family member grow. The council needs a regular structure, with meetings, decisions recorded, ongoing communication about issues, and roles for individual members.

But the council is more than a business structure. The meetings I have seen are full of fun. Milestones, achievements, and special events are recognized and ritualized in council gatherings. People doing exciting projects take time to present their work. Beneficiaries of family largess report back about what they've been doing. Young people talk about their college projects.

These activities affirm the family values. If the family supports one member as an artist or hears about the conservation work of another, it recognizes that these pursuits are as important as being a manager in the family business.

The foundation of good feeling and trust that is created allows the group to wade into difficult issues and resolve them. When a council gets to be so meaningful and so much fun for a family, attendance is assured.

Getting People To Open Up

Here are some techniques that are useful in conducting a family council meeting or retreat:

Interest Groups: Have different interest groups take the floor for perhaps 30 minutes to talk about their concerns. Women in the family, relatives outside the business, spouses, sons, or other relevant groups can present their particular ways of seeing things. After the allotted time, the whole group can respond.

Pair Interviews: Have pairs of people who seldom interact spend an hour together talking about their individual histories, goals, and feelings. Then each person should share with the whole group what he or she learned. This process can help people talk about difficult issues and help build family bonds among those who may have little understanding of one another.

More, Less: One family member sits in the center, and the others tell what they want to see more of from that person and what they want to see less. This is a way for family members to share difficult feelings with one another. Always begin with the positive pole—what people want more of.

Changing Roles: Two people who are having difficulty with each other spend a period of time in which each must express the other's point of view to the person's satisfaction. This can help resolve many generational and sex-role disagreements by building greater understanding between people.

Overcoming Resistance

What do you do when you suggest a family business council and Dad resists, saying there is nothing to discuss? Many family members respond by withdrawing, assuming there is nothing they can do.

Not so. Many strategies are open to you. One is to meet without Dad, even if he is the owner. No person, no matter how important, should be allowed to keep a gathering from occurring.

Resisters can be invited to come as observers, or they can be told that they are always welcome and that what takes place will be shared. If the first meeting goes well, skeptics are usually willing to come to the second one.

A group of siblings of a large and complex family business with many trusts asked the father to initiate meetings so they could understand the trusts and their future. He declined, saying he was too busy.

The siblings met themselves, sharing their frustrations. Then one daughter suggested inviting the company's lawyer, who, after all, had said he was their adviser too. He attended a few meetings to discuss their various trusts. After about six months of meetings, the father asked if he might come. His children welcomed him, and he hardly remembered he had rejected their first invitation.

You must act creatively to overcome the resistance of the holdout. Often that person has concerns or fears about family gatherings that must be taken into account. One spouse who was adamantly opposed to family meetings admitted she feared she would be criticized and the meeting would be angry and unproductive. The answer was to build in ground rules to guard against such criticism.

Another way to overcome resistance is to have other families that have created a council share their experiences with your family.

The best way to convince resistant members of the older generation is to have a peer take them out to dinner and explain how the council worked for the peer's family.

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See You Out Of Court

By Steve Kaufman

At first, a costly and time-consuming legal dispute seemed inevitable. The founder and majority owner of a small office-chair distributing company near San Francisco had discovered that one of his executives and stockholders was on the verge of opening a competing firm—apparently with the help of unauthorized use of company funds.

The company's founder fired the executive and sued him, alleging misuse of corporate assets and unfair competition. The executive countersued, claiming, among other things, wrongful termination.

If the case had gone to trial, it would have entailed 10 separate claims and counterclaims. An additional matter—what to do with the executive's \$100,000 worth of stock—could be addressed only after these issues were resolved. Lawyers in the case figured each side faced at least \$35,000 in legal fees.

Then Kirk Wallace, the lawyer representing the company, had a brainstorm: Why not submit the matter to mediation?

The other side accepted this suggestion.

In the resulting agreement, the founder got the stock back while taking sole responsibility for repaying a loan that he and the former executive had co-signed. In addition, the executive agreed not to use trade-secret information, and the owner dropped his suit. The matter was resolved in one day. The total cost to both parties amounted to \$2,000, divided evenly.

"Mediation is great if both sides are interested," says Wallace. "It's much more flexible than litigation. Business people prefer to work out their differences informally and spend money on building their businesses, not on legal fees."

Unlike litigation, mediation involves the resolution of disputes outside a courtroom—and only with the consent of all parties. No agreement, no deal.

Nationwide, mediation is soaring in popularity, mainly because it offers a risk-free way to settle legal disputes and, according to mediation firms, leads to successful resolution about 85 percent of the time.

Steve Kaufman is the economics writer at the San Jose Mercury News.



PHOTO: GREGORY HOLMSTROM

Although there is no central clearinghouse of nationwide statistics on the use of mediation, its rising popularity can be seen in the growth of firms providing mediation services.

The revenues of the publicly held mediation firm Judicate, based in Philadelphia, rose to \$3.5 million in 1991 from \$1.9 million in 1990, and President Jay Seid says revenues this year are likely to triple.

Founded in 1985, Judicate initially served metropolitan Philadelphia, then spread throughout the Northeast. Now the firm also does substantial business in Texas, California, Illinois, and southern Florida.

The American Arbitration Association, a New York-based nonprofit service whose members conduct arbitration, mediation, and other alternative dispute-resolution processes, says its 35 offices nationwide handled 7,161 mediations in 1991, up from 5,386 in 1990 and 4,801 in 1989.

The Center for Public Resources, another New York nonprofit organization that promotes mediation and other forms of alternative dispute resolution, has persuaded 1,066 law firms across the country to sign a policy statement assuring that their lawyers know about mediation and discuss its application with clients in appropriate cases. A similar policy statement drafted by the Center for Public Resources has been signed by about 600 corporations.

Since its opening a year ago with two former law partners experienced in litigation, the Bates Edwards Group, a San Francisco mediation firm, has handled



250 cases and has 100 more cases in the pipeline. The firm's clients have included Dean Witter Reynolds, Bank of America, and Anheuser-Busch. This year Bates Edwards opened two more offices, one in Portland, Ore., and the other in San Diego.

Says John Bates, a principal at the firm: "The beauty of mediation is that both sides are working hard to reach a compromise and so play an integral role in the decision-making process."

Courts like mediation because it reduces their potential workload, which is already staggering. And lawyers increasingly appreciate it because it often allows them to serve their clients more effectively—charging lower legal fees and achieving better settlements.

According to some lawyers, mediation is gaining popularity as a way to resolve

Mediation can be faster, cheaper, and more satisfactory than going to court to resolve a business dispute.



Peace talks: Mediator John Bates (wearing eyeglasses and a blue shirt, in the far left photo), of the Bates Edwards Group, meets first with the plaintiffs and then (photo below left) with the defendants to gather information. In the next step (photo at left), the parties meet face to face, with Bates as the mediator. Having resolved their dispute, the two sides conclude the process with a handshake.



all types of business disputes, partly because business people prefer the privacy of mediation over the possible publicity of lawsuits.

"The only people who need to know about the dispute are the parties themselves," says Katini Leodas, a mediator in the Cambridge, Mass., office of Endispute Inc., which conducts alternative dispute-resolution procedures and is based in Washington, D.C. "Most businesses don't want their competitors, their customers, their suppliers, or their franchisees to know about their lawsuits. Why take the chance of setting an unpleasant precedent?"

Leodas says mediation, unlike litigation, can also help keep business relationships from being shattered. "It's an important consideration," she says. "Preservation of a relationship in business often spells the difference between success and failure."

Mediation appeals to many business people because its give-and-take is akin to the kinds of dealings they get involved in during the normal course of a workday, says Michael Hall, a Palo Alto, Calif., lawyer who has been involved in several successful mediations. "Business people like to structure their own legal settlements rather than have them imposed on them," he says. "They want more control in how things work out."

Mediation works because rival parties and their lawyers meet face to face in a neutral setting, and each side then gains insights into the legal merits of the opposition's case.

More than 90 percent of civil suits are settled before going to trial. Often, a settlement is reached after each side, having seen that the other has a credible case, decides not to face the unpleasant

prospect that the outcome of a trial might be little more than a coin toss.

In mediation, helped by the diplomatic skills of a trained mediator, the parties often can find common ground to resolve their differences and walk away relatively content.

The alternative is a trial or arbitration, either of which can entail uncertainty and costly litigation. "In a trial or in an arbitration proceeding," says Bates, "there is a winner and a loser. Mediation, on the other hand, is usually a win-win situation."

Arbitration proceedings are more formal than mediation sessions. In arbitration, each side presents its case, usually with witnesses, and a stenographer may transcribe the proceedings. The arbitrator makes a decision, typically within two weeks, and appeals are prohibited.

A mediation process, however, is cen-

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tered on give-and-take, and parties know they don't have to reach agreement. If they do, however, the decision is legally binding.

Should one side later break the agreement—which mediators say is extremely rare—the other side can easily obtain a court order to enforce the original agreement.

Mediation can sidestep financial issues, if appropriate, and focus on something as simple as encouraging one party to issue a formal apology to the other.

Most mediations are completed within one day.

Mediators handle virtually the entire range of civil cases. They usually involve an individual on one side and a business—large or small—on the other. Or a dispute may pit one business against another.

Mediators are commonly used to resolve construction cases, personal-injury cases, partnership disagreements, commercial-contract disputes, employment conflicts, real-estate disputes, and landlord/tenant fights.

Mediation is also used often to resolve product-liability cases and to settle disputes between stockbrokers and their clients.

Mediation firms such as Judicate and the American Arbitration Association typically bill by the hour and rely on independent contractors for mediators.

Most mediators are lawyers or retired judges. Many lawyers have useful experience in pretrial negotiation; retired judges often are preferred because of their experience in conducting settlement conferences.

Regardless of who conducts the mediation, say the American Arbitration Association and Judicate, mediation allows creativity and flexibility to play an important role in the resolution of legal disputes.

Cliff Palefsky, a San Francisco labor lawyer, says he frequently is surprised at how otherwise stubborn cases are settled relatively easily through mediation.

Indeed, Palefsky's seven encounters with professional mediators in the past two years—all successful—have made him a lawyer with a new attitude. For years, he almost always demanded a jury trial for clients in wrongful-discharge suits. He figured the threat of facing a jury would prompt corporate defendants to pay.

Now Palefsky tends to pursue a much more diplomatic tact.

"For my clients, getting a good new job is often more important than winning a lawsuit," he says. "If I can get them a good, early settlement that allows them to get on their feet quickly, I'm doing a much better job."

16

How To Find A Mediator

Interested in finding a mediator but not sure where to start? Here are some tips.

For names, call either the local bar association or a local court. If you reach somebody at the courthouse who isn't quite sure what you're talking about, ask for an ADR (alternative dispute resolution) coordinator, an arbitration clerk, or a master calendar clerk. One of them should have a list of local mediators.

Next, check backgrounds. Determine if the mediator has experience and expertise within the realm of your dispute. Choose a mediator carefully because if mediation doesn't work out the first time, parties usually are reluctant to try again.

Talk to the mediator to get an idea of the individual's tactical approach, and speak with people who have used this mediator in disputes.

Because mediation is still a relatively new method of resolving disputes, it's critical that you pick someone with mediation experience. Freshly minted lawyers increasingly are hanging out shingles as mediators, but they may be unable to provide you with the service you deserve.

"The best way to learn mediation is by doing it, and the more you do it, the better

you get," says Kimberly Curtis, a regional vice president for the American Arbitration Association (AAA) in Salt Lake City.

"Experienced mediators get to know how to read the signals," adds Victoria Andrews, a manager in AAA's Chicago office. "They can sense when one party is leaning toward compromise, and how to make creative suggestions at just the right time."

"And they know how to make the parties feel that the solution was ultimately their idea so they feel that they were part of the process. Neither party will agree to a mediated decision if they don't feel a sense of 'ownership.'"

A less important but valid consideration is whether you prefer a lawyer or a former judge as your mediator. Many mediation observers believe lawyers are preferable because they have pretrial-negotiating experience and haven't spent years required to make decisions in trial or arbitration settings.

On the other hand, most judges who become mediators late in life have had the benefit of conducting thousands of settlement conferences and so may also know more about give-and-take.

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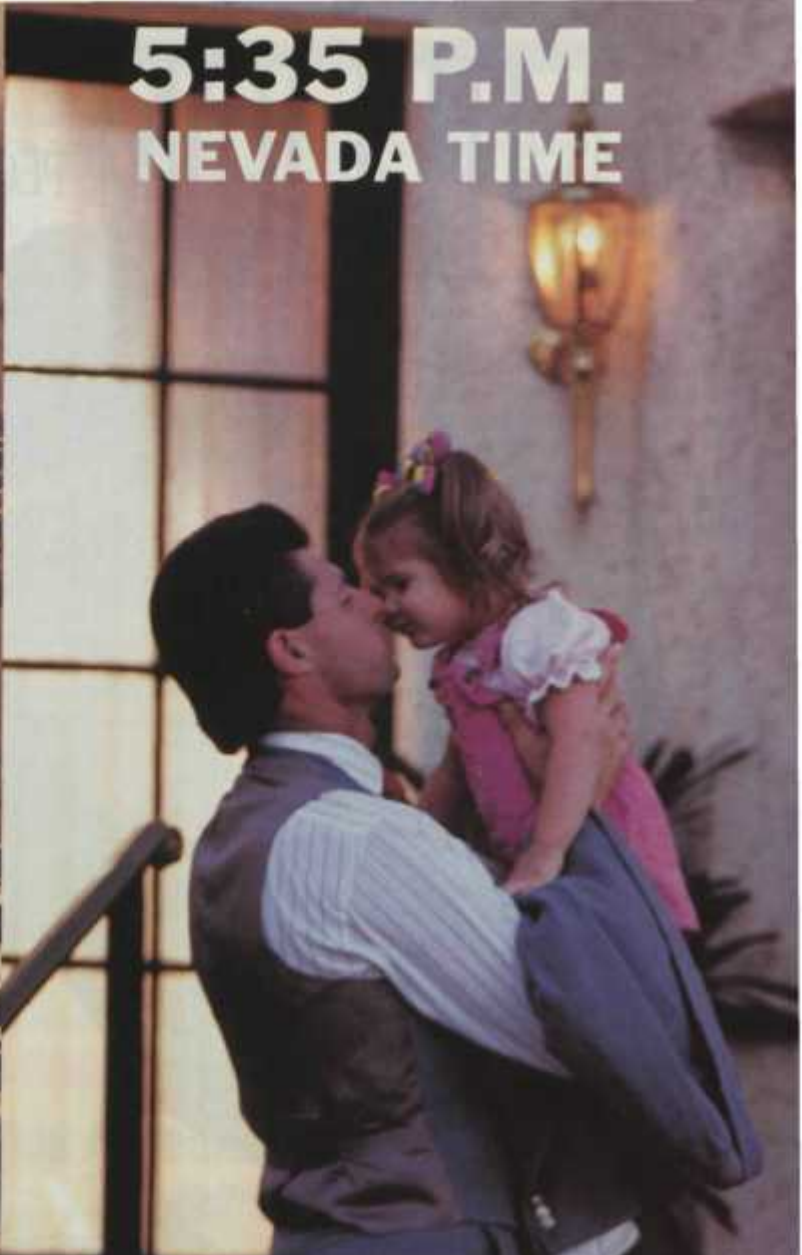
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Is There A Franchise In Your Future?

By Meg Whittemore

Expanding a business through franchising has become an increasingly popular trend among companies that are faced with shrinking markets, increased competition, and limited distribution systems.

In fact, most franchised companies are formed from successful independent businesses.

In addition, many franchised companies are expanding through a process called conversion—a method by which an independent business owner converts the operation to a franchise by joining an existing franchised company. It's a process that not only can help the franchisor expand but also can help an independent business grow—or help it survive if it is struggling.

Conversion also is defined as the method in which a franchisee switches

versions offer independents marketing clout, name recognition, a national presence, and advanced technology that they could not have benefited from otherwise."

Even successful independent businesses, however, are converted to franchises for "any number of reasons," says Andrew Sherman, a Washington, D.C., franchise attorney, "and all of them have to do with growing their business profitably."

In recent years, then, the definition of conversion franchising has come to include various types of change in a business's organization—an independent business becoming a franchise, or a franchisee switching from one franchise to another, or becoming a franchisor, or leaving franchising to become an independent business owner. The profiles that

One of the paths to growth for independent businesses is conversion to a franchise.

franchise and set up shop in their native Louisville, Ky.

Three years later, the Phillipses joined four other franchisees of the same travel agency and ended their contracts with the San Diego-based franchisor. The group of franchisees had concluded that the franchisor had not been supplying the amount of support that had been promised, says Joe Phillips, "and our reputation was at stake."

In 1989, the five former franchisees banded together and started their own travel agency franchise, called TravelPlex International. The Phillipses converted their original franchise into a TravelPlex franchise. "We converted our franchise into another and became a franchisor in the process," says Joe.

The Phillipses are now both franchisees and part-time franchisors of TravelPlex International, which is headquartered in Dublin, Ohio. The couple holds a minority ownership in the franchise and, as the franchisors, provides support to other franchisees as needed.

"Wherever we have an opportunity to combine resources or purchases, we do it to gather group volume discounts," says Joe. "That's what a good franchisor should be doing."

The Phillipses own four TravelPlex franchised offices in Louisville, and they employ 22 people. Their sales for last year topped \$5 million. The bulk of their business comes from corporate accounts, but they expect future sales to include the leisure trade as well.

Rita Phillips, a former personnel management executive, handles the day-to-day operations of the business, while Joe Phillips continues to hold a corporate executive position with General Electric Co. He handles the TravelPlex advertising and marketing and keeps the books—all duties that can be performed in the evenings and on weekends.

TravelPlex now has 12 franchisees (including the Phillipses) in St. Louis; Columbus, Ohio; Milwaukee; Cincinnati; Cleveland; and Louisville.

Joe Phillips estimates that at least \$100,000 is required to start a TravelPlex franchise, depending on the location and size of the office. The company looks for "people with independence" as franchisees, he says. "While we [as the franchisor] provide guidance," he explains, the franchisee is "the one who is going to have to do the work." In addition, franchi-

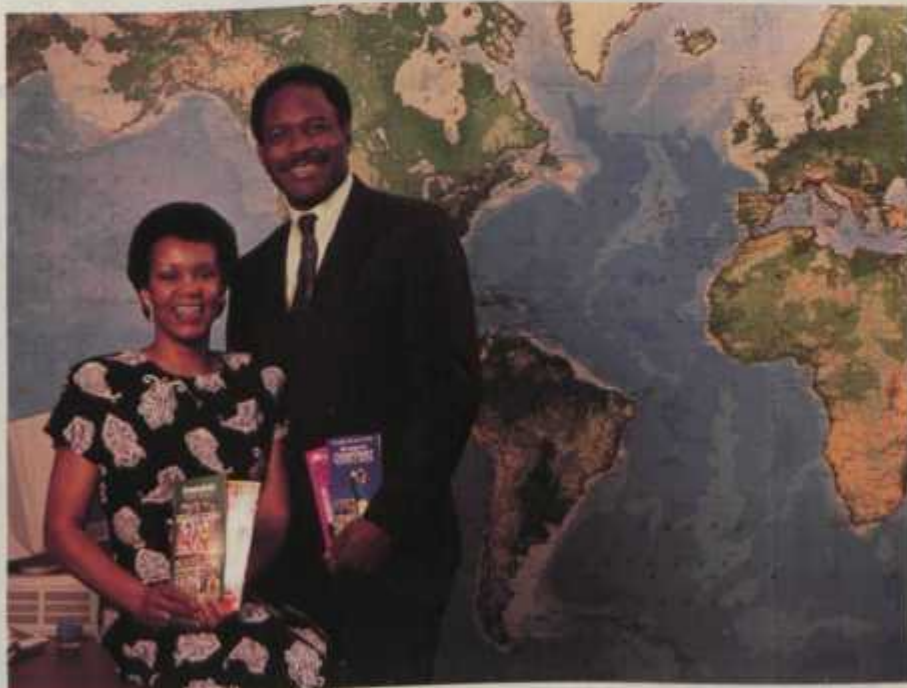


PHOTO: BILL LUTTER

In converting their travel-agency franchise to a TravelPlex unit, Rita and Joe Phillips of Louisville, Ky., also became franchisors.

from one franchised company to another, or when a franchisee elects to become an independent business.

Primarily, independents convert to franchises as a way to stay in business. John Reynolds, the International Franchise Association's vice president for marketing and public relations, says, "Con-

follow are based on the stories of business people who have experienced such types of conversion franchising.

From Franchisee To Franchisor

Rita and Joe Phillips decided in 1985 that they wanted to own a travel agency, so a year later they bought a travel-agency

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sees must be able to sell aggressively, he says. "They have to be doers."

In And Out Of Franchising

It sounded like a good idea in 1986 when a franchise consultant suggested to Shelagh Watson that she expand her business through franchising. Now, after six and a half years and \$250,000 in expenses, Watson says that her entry into franchising was premature.

The consultant should have told her, she says, that because her company had not yet broken even, "I needed to wait five years before I had something to sell to a prospective franchisee."

Watson is the founder of Magnifete, a women's shoe store specializing in hard-to-find oversize women's shoes. She started Magnifete, based in downtown Cincinnati, in 1985, primarily because she had trouble finding fashion shoes in her size—11½. And she believed that there were other women who shared her frustration.

After the store's annual gross sales rose from \$367,000 in 1986 to \$600,000 in 1987, Watson opened two more stores, in Columbus, Ohio, and Indianapolis, and



PHOTO: GUEFF LAWRENCE

Shoe-store owner Shelagh Watson, of Cincinnati's Magnifete, started franchising "way too soon."

she marketed the franchise through national trade shows.

"Our franchisee profile was not working," says Watson. She wanted an on-site owner, preferably a woman, who would get involved with the customers and the inventory. The franchise also required

that the franchisee have a line of credit for \$160,000 to cover inventory and the store's start-up costs.

"The people who were interested wanted to be absentee owners, or couldn't get the financing, or thought they would turn a 15 percent profit in the first year," says Watson. "In this industry, you are doing well if you make a 5 percent annual profit."

Two years ago, Watson says, "there were an awful lot of lawsuits and dissension in franchising, and I began to see that more and more." The potential for litigation over the life of a franchise contract ultimately led Watson to get out of franchising. "I'd rather say that this [franchise program] was a nice research project for a quarter of a million dollars than be in a lawsuit for a million or more because we hadn't supported [the franchisee] properly," she says.

Watson closed the franchise company along with the out-of-town stores and concentrated on the original business. This past February she introduced a catalog of oversize shoes, and sales have increased by 30 percent. The business is self-supporting, and Watson likes how the future looks.

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too soon," she says. "In six and a half years, I took every risk, and I am hoping that this round of risks—closing our other locations and starting a catalog—is going to work."

Status Quo Franchising

Skyline Chili is a 43-year-old company that converted from a hometown chili parlor to a national franchise in 1956. Three years ago, the Cincinnati-based company underwent another kind of conversion: Instead of aggressively expanding the franchise, the company put the brakes on growth of its franchise program until it can be reformatting.

Why? "Cincinnati-style chili is different from most people's idea of chili," says Tom Allen, marketing director. "And educating people on that difference outside of the city poses a marketing and communications challenge."

Allen speaks from experience. Skyline Chili franchises in Washington, D.C., Pittsburgh, and Indianapolis have closed along with two out of the seven Skyline locations in Florida. "We were dealing with a different level of expectation from the customer when it comes to chili," says Allen, "and we just couldn't build the kind of following that we have in Cincinnati."

Skyline Chili is a one-product franchise. The 79 franchised restaurants sell Cincinnati-style chili to a devoted following—last year's estimated gross sales were over \$40 million.

Skyline Chili comes in three types. A so-called 3-Way consists of chili (the spices used are secret) served over spaghetti and covered with mild cheddar cheese. A 4-Way adds onions or red beans to the dish, and a 5-Way includes all five ingredients.

The franchised company now has 51 franchised outlets in Cincinnati. "The product is well-loved here, but in other cities we know that is not the case," Allen says, referring to the earlier closure of several Skyline restaurants outside the firm's hometown.

Skyline Chili started in 1949 when Nicholas Lambrinides moved to Cincinnati from Kastoria, Greece, and opened a restaurant in a neighborhood that overlooks the downtown skyline—hence, the name. There, he developed a chili recipe that became the foundation of his restaurant. Today, his three sons are the only persons authorized to mix the spices that are used in the chili recipe, which is kept in a lockbox.

Skyline Chili franchises dish up more than 3,000 gallons of chili each day, mainly to lunchtime crowds. The newest location in downtown Cincinnati averages \$4 per

Continued on Page 67

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Doctors Examine Franchising

By Janet L. Willen

Physicians in increasing numbers are following the path set by fast-food restaurants, beauty shops, and auto-service centers: They are franchising.

Some doctors and franchise experts say medical franchising is the wave of the future, enabling expansion and improving patient care; others say it won't work.

Raymond Gavary, a physician in Gurnee, Ill., was in a successful partnership before he founded the American Family Doctor, a primary- and urgent-care practice.

Gavary's partnership was suffering from having grown too rapidly. Patients had long waits to be seen, and billing was inefficient. To make the practice more service-oriented, Gavary called in business people who had smooth-running offices. They retrained the staff and redesigned the office so that the whole operation ran more efficiently.

Gavary soon realized that he wasn't the only doctor who could benefit from this kind of help. He left his practice in 1988 to open American Family Doctor (AFD), a franchise specializing in helping doctors apply sound business techniques to their practices. "I was primarily concerned about young doctors," those without office skills or money to start a practice, he says.

Dr. Mark Lewis is the sole practitioner at an AFD office that he opened in St. Charles, Ill., in March 1991.

"I looked at the options available to me—starting my own practice, joining a group practice, employment in a university or with a commercial group—and this seemed the best," he says. According to Lewis, AFD had the dual appeal of autonomy and ownership. The arrangement, he says, "makes a lot of sense for someone straight out of medical school."

Gavary charges franchisees a \$35,000 start-up fee and a monthly royalty of 8.5 percent on collections. There are now two AFD franchises, and two more are scheduled to open soon. AFD doctors are either full or part owners of the offices in which they work.

American Family Doctor lets physicians practice independently without concern for the daily administrative details of running an office. The franchisor is responsible for billing, filing medical-insurance claims, and myriad other administrative details. This leaves the doctors to concentrate on their patients.

AFD aims to establish physicians where they are needed. Gavary says AFD consults with doctors to see where they want to work and then does demographic

studies to see if a physician is needed there. The franchisor also investigates the hospital in the area to make sure it and the doctor will be a good fit.

Another medical practice, Doctors To Your Door, operated successfully in its initial site in Louisville, Ky., but its first two franchises failed.

Linda Mudd, a teacher by training, began Doctors To Your Door in 1984. The service provides nonemergency medical care to the elderly or chronically ill homebound as well as to patients with an acute condition who cannot be moved.

Mudd began franchising Doctors To Your Door in 1988. One year later, the first franchise closed. In 1990 the other one shut its doors. Mudd said she then stopped the sale of franchises to evaluate the problem. She hopes to resume franchising next January.

Mudd says both franchises suffered from lack of money. Doctors To Your Door depends upon reimbursements from Medicare and Medicaid for part of its revenue. These payments are low and often arrive late, she says, so capital must come from other areas.

To minimize the problem, Doctors To Your Door is broadening its services to include insurance exams, occupational



After medical school, Dr. Mark Lewis opened a franchised practice in St. Charles, Ill.

medicine, employment physicals, and health screenings required by the Occupational Safety and Health Administration.

Mudd has no trouble finding doctors interested in buying or working at franchises. The Louisville office has 17, four of whom work full time. Mudd estimates that a doctor who just makes house calls weekdays from 9 a.m. to 5 p.m. can earn \$90,000 a year.

Mudd's franchises cost \$35,000, plus a 5 percent royalty on collections and a 1 percent advertising fee. The franchisor provides a software program for maintaining patients' records plus a training

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session that lasts a week to 10 days.

Physicians who purchase a medical franchise are usually interested in acquiring marketing know-how, effective office procedures, and technical knowledge.

Mudd says her franchises appeal to doctors who want an improved lifestyle. "If you don't work in a group practice, you have hospital duty. Doctors want to practice medicine, but they don't want to be involved in a bureaucracy," she says.

Gavery says his franchises are attractive to physicians starting out as well as those near retirement age. It gives both groups freedom to practice medicine without the administrative hassles.

But not all physicians are happy with franchising. Max Ali, a surgeon, began Hemorrhoid Clinics of America five years ago. Ali has two franchised clinics, one that he owns in Oak Park, Mich., and another in Tampa, Fla. He says the primary difficulty is finding qualified physicians. Doctors with good skills, he says, "are not interested in franchising. They are busy enough themselves."

Ali also finds the stress of business ownership a problem. He once had five franchisees, he says, but he found he spent more time on business concerns than on medical matters.

Gavery, on the other hand, sees medical franchising as simply an efficient way to practice independently.

Continued from Page 64

sale and attracts about 585 customers daily. The store's annual gross sales are over \$700,000.

Outside the city, Allen says, the menu needs more variety to attract repeat customers. Out-of-town units, he says, "are profitable but not enough to warrant multiunit franchise locations."

Allen says Skyline's stalled franchise program is caused by "fundamental issues that can be overcome." Executives from other franchised fast-food companies along with consultants from the food industry have been brought in to tackle the problem.

In 18 to 24 months, Skyline will roll out another franchise program, Allen says, perhaps with an expanded menu and other changes in the operation.

"Getting someone to come for a bowl of chili is a relatively easy sale," says Allen, "but getting someone to understand that [Skyline's] is more than just a bowl of chili is the marketing challenge that we face."

Can't Beat 'Em? Join 'Em!

For Arthur Long, the decision to convert from an independent sole proprietor to a franchisee was simple: "After a year out on my own, I realized I couldn't make my business profitable," he says.

Two years ago, Long started ALI Home Inspection Service in Baltimore. "I converted my 15-year-old construction

company into a home-inspection business," he says, in a move dictated by problems with his back.

Long was a sole proprietor for a year, but then he realized that he could not market his business, conduct the inspections, and make the business grow by himself.

"After I compared my company's 1991 total of 70 home inspections to my competition's 805, I was blown out of the water," says Long. "I closed shop and went to work for my competition, AmeriSpec Home Inspection Service."

Long approached AmeriSpec franchisee David DeSombre in January to discuss partnership options. A month later, Long became a minority partner in DeSombre's franchise. "Long is a true survivor," says DeSombre. "He realized that the key to succeeding in the midst of the industry downsizing was to consolidate."

Long's strategy is working. "In the three months that I've been here, I've done more inspections than I did in the previous year and a half," he says.

AmeriSpec, Inc., headquartered in Orange, Calif., offers home buyers information on a home's structure, roof, foundation, plumbing, electrical wiring, heating and cooling systems, and soil conditions. Typically, an inspection is conducted before a sale. The minimum fee to the home

Continued on Page 70

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Do You Have What It Takes?

By Andrew J. Sherman

Over the past 20 years, franchising has become a popular way for some businesses to expand—particularly for smaller companies that cannot afford to finance systemwide growth.

The main reasons for going through the lengthy—and costly—process of converting a business into a franchised company include the franchisor's ability to obtain operating efficiencies and economies of scale, achieve faster market penetration at a lower capital cost, reach the targeted consumer more effectively through cooperative advertising and promotion, and sell products and services to a dedicated distributor network.

Through franchising, a company's products or services are provided by motivated owner/operators whose financial rewards depend on their own efforts.

Andrew J. Sherman is a Washington, D.C., lawyer who specializes in legal and strategic issues that affect franchising, licensing, and business growth.

Even though franchising has enabled thousands of businesses to expand successfully, this strategy is appropriate only for certain kinds of companies. There are a host of legal and business prerequisites that must be satisfied before a company considers franchising as a method for rapid expansion.

Many companies prematurely select franchising as a growth alternative and then haphazardly assemble and launch their franchising program. Other companies are coaxed into franchising by unqualified consultants or advisers, who may be more interested in professional fees than in the long-term success of the franchising program. Such instances have caused financial distress and failure for some franchisors and franchisees and often have resulted in litigation.

Responsible franchising is the *only* way that franchisors and franchisees will be able to coexist harmoniously, and that means there must be a secure foundation from which to launch a franchising program.

Franchising is the establishment of a series of long-term relationships.

A strong franchise system should contain the following components:

■ **A proven prototype location** or a chain of stores to serve as the basis for the franchising program. The store—or stores—must be operated successfully and be consistently profitable. The success of the prototype should not be too dependent on the physical presence or the specific expertise of the system's founders.

■ **A strong management team** composed of internal officers, directors, and qualified consultants. The management

group should understand the industry in which the company operates and the legal and business aspects of franchising.

■ **Sufficient capitalization** to launch and sustain the franchising program and to ensure that money is available for the franchisor to provide initial and ongoing support to franchisees. A poorly researched business plan and inadequate

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capital are often the reasons franchisees fail.

■ **A distinctive and protected trade identity.** This includes federal and state registered trademarks plus a uniform trade appearance, signage, slogans, and overall image.

■ **Proprietary and proven methods of operation and management in writing.** An operations manual should not be easy for competitors to duplicate, and it should retain its value to franchisees over an extended time. The methods of operating should be enforced through clearly drafted quality-control standards.

■ **A comprehensive training program for franchisees.** Ongoing training and support enhance the chances for success. The training should take place at the company's headquarters and at the franchisee's proposed location.

■ **In-house field support staff skilled in training and communicating,** to visit and assist franchisees and to monitor quality.

■ **A set of comprehensive legal documents** that reflect the company's business

strategies and operating policies. Uniform franchise-offering circulars—spelling out details of the business for prospective franchisees—must be prepared according to applicable federal and state disclosure laws. In addition, franchise agreements should strike a balance between the rights and obligations of the franchisor and the franchisee.

■ **A genuine understanding of the competition—both direct and indirect.** The franchisor faces competition when marketing and selling franchises to prospective franchisees, and the franchisee faces similar challenges in marketing the franchised product and/or service.

There should be a demonstrated market demand for the franchisor's products and services, and they should meet certain minimum quality standards.

Site-selection criteria and architectural standards should be readily secured.

Establishing relationships with suppliers, lenders, real-estate developers, and others connected with the business is an important aspect of successful operations.

Each franchisor should develop a franchisee profile and screening system in order to identify the minimum financial qualifications, business acumen, and un-

derstanding of the industry needed to be a successful franchisee.

An effective system of reporting and record keeping should be installed to maintain the performance of the franchisees and ensure that royalties are reported accurately and paid promptly.

Research-and-development capabilities for the introduction of new products and services are important for a successful franchise operation.

An internal communications system that facilitates a continuing and open dialogue with the franchisees should be maintained, to reduce the chances for conflict and litigation with the franchisor.

National, regional, and local advertising, marketing, and public-relations programs should be designed in order to recruit prospective franchisees as well as to attract customers to the franchised stores.

In summary, franchising a business is not a solution for an undercapitalized company, nor is it a way to "get rich quick." Franchisors must view franchising as the establishment of a series of long-term relationships, and the ongoing success of the company as a franchisor will depend on the harmony of these relationships.

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PHOTO: JEFF LAWRENCE

Essentially a one-product franchise, Skyline Chili does best in its hometown of Cincinnati.

Continued from Page 67

buyer is \$170 for a house valued at up to \$170,000; the fee is higher for houses of higher value.

Long says he sees a bright future. Ten years ago, less than 10 percent of all homes were inspected before being sold. Today, almost one-third of all home buyers hire a home inspector.

Joining a franchise means having national advertising support and marketing

training—two areas that Long struggled with when he was on his own. "It's been a very good move for me," he says, "I'm definitely making more money—and that's the reason I am in business."

Not long ago, most independent retailers would have viewed conversion to a franchise as a mark of failure. Today, the need to fend off competition, build market share, and increase revenue is forcing independents to see conversion as a way to stay in business and remain profitable.


Take General Nutrition, Inc., for example. The 55-year-old health, nutrition, and fitness franchise, based in Pittsburgh, considers the conversion of independent retailers to General Nutrition Center (GNC) franchisees as an integral part of the company's franchising strategy.

"Our conversion program allows smaller vitamin and health-food stores to maintain market share," says James Shallcross, vice president of GNC Franchising, Inc. Converting independents to GNC franchisees gives GNC widespread access to new markets.

TempForce and HealthForce, franchises that offer temporary personnel for offices and health-care companies, respectively, are enticing independent temporary-service businesses to convert by offering them financial incentives. The two franchises, both based in Westbury, N.Y., offer a conversion fee based on the sales volume of the independent, a waiver of the franchise fee, and cash flow to fund the payroll for temps.

"In this economy, more and more independents are converting to large, established temporary-services franchisors for financial and psychic reward," says Edward Grant, president of both companies.

Robert Anderson, vice president of Comprehensive Business Services, based in Carlsbad, Calif., agrees. "From video stores to printing centers, almost any field you can name used to be dominated by independent owners," he says. "But in today's climate of rapid changes, independent practitioners need all the help they can get."

 To order reprints of this article, see Page 83.

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Resources For More Information

The dozens of books on franchising range in subject from starting a franchised business to buying an existing franchise. Some are sold in bookstores, and others may be ordered from the publisher or a trade association. Following is a sampling of resources:

■ *The 1992 Franchise Annual* (INFO Press, Inc.) lists 4,861 business-format franchisors in the U.S., Canada, and other countries. (Business-format franchisors provide not only use of the franchisor's trademark but also products, training, and a total business-management system.) Each listing describes the franchise and gives the number of franchised units, the franchise fee, and the name of a person to contact for more information.

The directory also includes a comprehensive discussion of the history of franchising in the United States, the 1979 Federal Trade Commission Rule on franchising, state laws affecting franchising, disclosure statements, the franchise contract, and the role of the franchisee.

To order, send a check or money order

for \$39.95 to Info Franchise News, 728 Center St., Box 550, Lewiston, N.Y. 14092-0550. For more information, call (716) 754-4669.

■ *Handbook of Successful Franchising* (Liberty Hall Press), by Mark P. Friedlander Jr. and Gene Gurney, covers the basics of buying a franchise. It includes chapters on contract negotiation and franchise law, and it provides a sample franchise agreement. The book also lists governmental and nongovernmental agencies that offer information to would-be franchisees. The book costs \$19.95 and is available at most bookstores.

■ *The Complete Handbook of Franchising* (Addison-Wesley), by David D. Seltz, offers a step-by-step approach to the franchising process. Planning, feasibility studies, setting up the franchise, and daily operation of the business are covered. The book costs \$49.95 and is available through most bookstores.

■ *The Continental Franchise Review* (Sparks Publishing Co., Inc.), a biweekly newsletter, analyzes current events in franchising. Subscriptions are \$135 for a year or \$60 for a six-month trial. For more information, contact the publisher at P.O. Box 3283, Englewood, Colo. 80155; (303) 649-1044.

■ *The Info Franchise Newsletter* (INFO Press, Inc.) is a monthly newsletter on trends and developments in the franchise community. An annual subscription costs \$96 and is available by sending a check or money order to Info Franchise News, 728 Center St., Box 550, Lewiston, N.Y. 14092-0550.

■ *Franchising: Regulation of Buying and Selling a Franchise*, by Philip E. Zeidman, Perry C. Ausbrook, and H. Bret Lowell, provides a guide to franchise registration and disclosure and an analysis of the legal requirements for determining what is—and is not—a franchise. The book is \$50. Contact the Bureau of National Affairs, 9435 Key West Ave., Rockville, Md. 20850.

■ *Franchising & Licensing: Two Ways to Build Your Business* (AMACOM) by Andrew Sherman, contains a comprehensive approach to business growth strategies. The book costs \$27.95 and is available through bookstores.

■ The International Franchise Association offers a free publications list of various books, audio tapes, and brochures on aspects of franchising. To receive a copy, write to the IFA, 1350 New York Ave., Suite 900, Washington, D.C. 20005.

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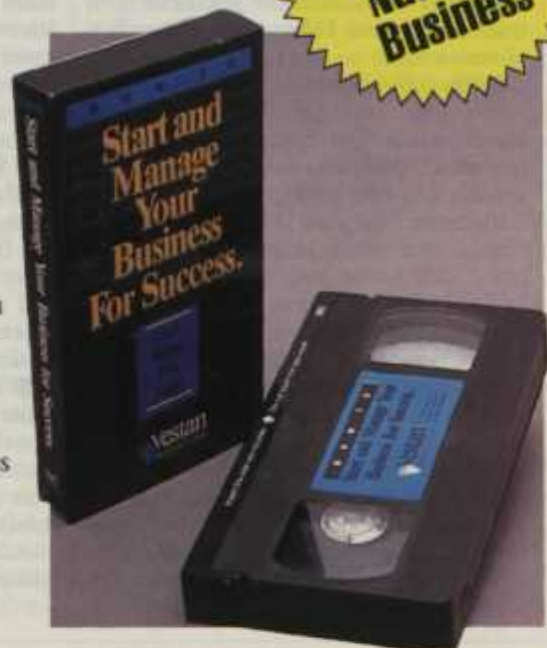
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Direct Line

Experts answer our readers' questions about starting and running their businesses.

By Meg Whitemore

WORKERS' COMPENSATION

A Question Of Coverage

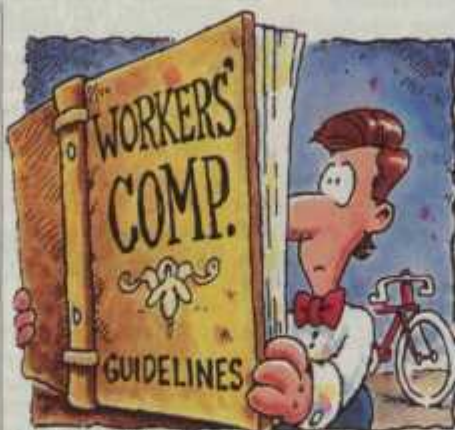
I have a full-service bicycle shop. Am I required to have workers' compensation insurance? How would I go about getting it?

H.J.K., Virginia Beach, Va.

Jimmy Podoley, a Washington, D.C., agent for State Farm Insurance Cos., says workers' compensation is mandatory for any business employing one or more persons.

He suggests you contact an insurance company that regularly handles insurance policies for businesses; such companies generally also write workers' compensation policies.

For an overview of some of the cost issues surrounding workers' compensation, see "Putting The Brakes on Workers' Comp," in the November 1991 issue of



ILLUSTRATIONS: DAVE ALLEN

Nation's Business. Copies of that issue are available for \$3 each, prepaid, from *Nation's Business*, Circulation Department, 1615 H Street, N.W., Washington, D.C. 20062-2000.

BOTTLING

Fresh Water

I run a wood-products company and am interested in getting information concerning the bottling and marketing of pure mountain-spring water.

M.A.M., Oakland, Md.

According to the International Bottled Water Association, the estimated cost of

starting a bottling plant is over \$1 million. The costs involved include the real estate and the equipment needed to collect and bottle the water. Bottled-water distributorships are less costly to open.

For more information on opening either a plant or a distributorship, write or call the International Bottled Water Association, 113 N. Henry St., Alexandria, Va. 22314; (703) 683-5213.

QUESTION OF THE MONTH

Polishing Your Business Prose

Teaching employees and managers how to communicate clearly is important to our readers who own small businesses. For example, D.L. of Montgomery, Ala., writes, "Is there a way to teach my workers how to write clear, to-the-point memos?" The answer is yes.

Numerous books on business writing cross our desks at *Nation's Business* each month, and we have found several that appear to be valuable resources in helping employees improve this skill.

We recently looked at *Writing Effectively in Business*, by Sandra Smythe and Beth Neman (Harper Collins). Smythe is a former communications executive of a

major company who now runs a business consulting firm in Cincinnati. Neman is a college professor. They maintain that you need more than just a basic knowledge of the language to write memos, business letters, business plans, proposals, and short reports. In an interview with *Nation's Business*, Smythe said that "you need to know how to write 'up' in the organization [to senior executives] and how to write 'down' in the organization [to subordinates]. The tone is all important."

In their book, the authors also stress the importance of written communications: "In business, every internal memo you write reflects upon your personal competence; every external communication reflects upon the business you represent."

Typically, most business writing has a three-part structure that includes the

ARCHITECTURE

Inside Work

I have been drawing house designs and floor plans for years as a personal interest. I would like to start a free-lance business in which I work with builders and architectural firms on specific design projects. How do I get started?

C.M., Hubbardston, Mass.

First, you should decide which area of interior design you want to pursue, says interior designer Tama Andrews, in Concord, N.H. Residential communities, hotels, and institutions such as hospitals, offices, and schools use interior designers, she says.

In addition, she notes, "it helps to be in an area where there is a high level of building activity, because architects and building contractors will be looking for your services."

You should have a degree from a design school that offers instruction on drawing to specification and on plumbing, electrical wiring, insulation, and the other basics of interior design. You also should have a portfolio of your work to show prospective clients.

To obtain contacts when you work independently, you must depend on cold calls, references, and word-of-mouth communication. Most people in the field agree that it is easier to affiliate with an



opening—or orienting—statement, the point or purpose of the communication, and the close, which usually contains suggestions for further action. "Depending on the situation, however, the way you

architectural firm or builder and then show their clients your portfolio.

For basic information on degree requirements and educational seminars or for other information, contact the American Society of Interior Designers, 608 Massachusetts Ave., N.E., Washington, D.C. 20002; (202) 546-3480.



can Society of Interior Designers, 608 Massachusetts Ave., N.E., Washington, D.C. 20002; (202) 546-3480.

FEDERAL DATA

Bypassing The Bureaucracy

I own a small business and need information about U.S. government contracts and distressed real estate. How can I get that information without going through a bureaucratic maze?

G.W., Austin, Texas

Government Access & Information Network, Inc. (GAIN), based in Rockford, Ill., offers small businesses an interactive fax service that provides access to six U.S. government databases. The service includes information on federal contracts for bid and bank-owned real estate for sale by the Resolution Trust Corp. and the U.S. Department of Housing and Urban Development.

organize the points may be different than what the academics teach," says Smythe.

Smythe and Neman offer a step-by-step approach to helping employees improve their writing. Basically, Smythe says, "we follow the philosophy of 'Be brief, be simple, be clear.'"

The book also contains a "Painless Usage Guide," which explains the meanings of words that are often misspelled and misused, such as affect/effect, all ready/already, and assure/ensure/insure. The section also lists rules of punctuation and illustrates grammatical errors.

Another recent book, *Put It in a Memo: A Practical Guide To Persuasive Business Writing*, by Helen Gorenstein (Houghton Mifflin), is a 136-page, easy-to-read reference. Gorenstein seeks to help people express their thoughts clearly, concisely, and with personal warmth. Her

AGRICULTURE

Catnip Cultivation

I am interested in growing catnip for commercial sale to pet stores. Is there an organization that can help me get started in this business?

S.W., Sacramento, Calif

Catnip is not hard to grow, according to Howard "Bud" Kerr, head of the Office for Small Scale Agriculture of the U.S. Department of Agriculture, "but the real question is where will you market the product." He suggests that you find a market for your catnip before you invest in the crop. Talk to potential buyers of your product such as pet-shop owners and pet-supply distributors.

There are fewer than 12 commercial catnip growers in the United States, and the growers' primary markets are pet stores, pet-product distributors, and those who buy through catalogs, according to the Pet Industry Joint Council.

For information on store owners and

The other databases cover government surplus for sale, federal grants, loans and technical assistance, sales leads/federal contracts awarded, and import/export leads.

Some of the databases are accessible by region, price, ZIP Code, or other categories.

Information is retrieved by calling an 800 or 900 number and selecting the information needed. The cost is \$3.50 per selection using the 800 number or \$2.25 per selection using the 900 number. There is an additional fee charged by the telephone company for calls made on the 900 number. For more information, contact David McKinney, Vice President, GAIN, 2470 Eastrock Drive, Rockford, Ill. 61108; (815) 398-9009.

organized approach moves from getting started, to focusing on the readers, planning the memo, choosing a structure, shaping the memo, listening to the memo, and writing the memo. An appendix has checklists for verbosity (planning, not advance planning; always, not at all times), business clichés (aware, not cognizant; erase, not expunge), sensitivity (shopkeeper, not tradesman; mail carrier, not mailman), words that sound alike (accept/except, all together/altogether), connecting words, punctuation, and subject/verb agreement.

Another recent book, *Effective Business Communication: A Complete Guide to Business Correspondence*, edited by Laura P. Chesterton (Houghton Mifflin), is called a "comprehensive yet concise guide to writing, formatting, and transmitting all types of business documents,

distributors, you can write or call the council at 1710 Rhode Island Ave., N.W., Second Floor, Washington, D.C. 20036; (202) 452-1525.

Kerr also writes a quarterly newsletter, *Small Scale Agriculture Today*, which is free to those who write to him at the Office for Small Scale Agriculture, USDA-CRS, Suite 342, Aerospace, Washington, D.C. 20250-2200.

If you have specific questions about raising catnip, Kerr invites you to contact him at that address.



HOW TO ASK

Have a business-related question? Mail or fax your typewritten query to Direct Line, *Nation's Business*, 1615 H Street, N.W., Washington, D.C. 20062-2000; (202) 463-3102. Writers will be identified only by initials and city. Questions may be edited for space.

The editors of Direct Line have developed *The Small Business Resource Guide*, which contains answers to the questions we are asked most frequently. The booklet is available for \$5.95 a copy (plus \$1 for handling). To order, send a check or money order to the Circulation Department at the address above.

from letters, memorandums, and minutes to corporate reports." The first chapter, "Using English Effectively in Business," includes 274 usage notes from the *American Heritage Dictionary, Second College Edition* as well as lists of 535 clichés and 63 redundant expressions to help writers avoid stale terms. The guide has sample letters and a chapter on how to style business documents.

These and other books on business writing are available at most large bookstores or public libraries or from the publishers.

In addition to books, employees might benefit from courses offered by colleges, universities, and adult-education programs. For information on writing classes, contact adult-education programs, local colleges, universities, and business vocational schools.

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By Peter Weaver

TRAVEL

Consider Consolidators When You're Looking For Deals

We're approaching the peak season for travel to Europe and the Far East, the time when international air fares and hotel rates are at their highest.

Although several major airlines recently altered their pricing structures and reduced fares in the process, international fares are still expected to be higher in summer than in the off season.

Yet if you know where to look, you can find discounts to make your plans for summer travel all the brighter.

Despite their heavy bookings in the peak season, airlines and hotels typically find themselves looking ahead at a number of days when they will have empty seats and empty rooms. So they sell the expected empties to "consolidators" at low bulk rates.

The consolidators then sell these deeply discounted fares and rooms through selected travel agencies or directly to the public through newspaper ads.

By using consolidators, travelers can reap substantial savings on international air fares and on hotel reservations here and abroad.

"My recommendation," says Ed Perkins, editor of *Consumer Reports Travel Letter*, "is to try your own travel agent or others in your area first." That way, you get personal service and you can use your credit card. If you deal directly with a consolidator, you will get bare-bones service over the phone, and many consolidators do not take credit cards.

However, you may not be able to find a travel agent who works with consolidators or who can match a consolidator's prices. "If you do deal directly with a consolidator," Perkins says, "be sure to get one that will take your credit card." You may have to pay an additional fee of 2 to 3 percent, but it's worth it, he says: "If the consolidator goes out of business or something else goes wrong, you can usually



PHOTO: SHARON WASTROW/LEO—THE STOCK MARKET

Planning to visit Paris? It may pay to ask your travel agent about getting deep-discount air tickets and hotel reservations from a consolidator.

charge back the disputed amount [to the card issuer] and get a credit."

Consolidators also sell discounted domestic airline tickets, but you'll find that you can save as much or more by using an airline's cheapest excursion fare, especially now that several airlines have sharply cut domestic fares.

The big plus in buying a domestic ticket through a consolidator is that there are few if any restrictions (such as having to

book one to three weeks in advance).

Consolidators also often specialize in booking certain airlines and hotels. Shop around for the right airline and the routes and times that fit your itinerary.

For a directory of consolidators, with detailed, state-by-state listings, send \$5 to: *Consumer Reports Travel Letter*, Attention: Back Issues Department, 101 Truman Ave., Yonkers, N.Y. 10703. Be sure to request the March 1992 issue. ■

INSURANCE

Turning To Insurance "Pawnbrokers" For Medical Bills

When you buy life insurance, the contract states that your beneficiary will be paid a specified amount when you die.

But what if you need the money before you die to cope with mounting medical bills?

If you are desperate enough, says Washington, D.C., attorney John F. Blake, "some companies, acting as insurance pawnbrokers, will give you 50 to 65 cents on the dollar before you die." In exchange for paying you that portion of the death benefit, the company becomes the beneficiary and receives the full benefit upon your death.

For you to qualify for that type of payout, a doctor must certify that you won't live more than six months.

Over the past few years, says Blake, "investors have put together about 20 companies that focus on people who are terminally ill."

Last year, he says, those companies bought more than \$100 million worth of insurance policies.

Most of the major life-insurance companies, on the other hand, have introduced policy riders that will let you collect on part or all of your life insurance before you die if you need the money and are certified to be terminally ill.

These riders offer far better deals than the ones you get from the insurance



Peter Weaver is a Washington-based columnist on personal finance.

"pawnbrokers." For example, Prudential offers a "living needs benefit" that will pay up to 95 percent of your policy's face value before you die if a doctor certifies that you won't live more than six months.

Prudential and others offer a special option that permits you to tap up to 80 percent of your insurance benefits before you die, if you become a permanent resident of a nursing home. Those who

choose this option are not required to be terminally ill.

"If you receive insurance benefits before you die," Blake warns, "you may have to pay a hefty income tax on a portion of what you receive."

Insurance money received by your heirs after your death is not subject to tax. Check with your tax adviser on this aspect.

FAMILY LAW

Prenuptial Agreements: Hold The Hearts And Flowers

In most states, you are not allowed to disinherit your spouse from at least part of your estate when you die. The minimum protected for your spouse is typically one-third to a half.

In addition, divorce courts are trying harder to come up with settlements that do not leave one partner with a lot more in

bestow on each other regardless of applicable state laws."

If death or divorce occurs, everything is spelled out ahead of time for a fair distribution of property. "It can be much less expensive and draining, without the need for lawyers and litigation," Schlesinger says.

But if a prenuptial agreement is to pass muster before the courts, Schlesinger says, the following questions must have positive answers:

- Was the agreement made without duress? Did the parties sign willingly, without being forced to comply?

- Did both parties have independent legal counsel?

- Was there sufficient financial disclosure?

- Was the agreement fair and reasonable?

When a prenuptial agreement is drawn up for two well-off people, it's a good idea to have an estate-planning specialist examine the pact for potential traps. "If I sign an agreement that I keep what's mine and you keep what's yours," Schlesinger says, "and nothing is left to the surviving spouse, there is no marital deduction." (The marital deduction is designed to eliminate or at least reduce estate taxes.)

To take care of that problem, Schlesinger says, you should set up a trust that gives the surviving spouse all the income from the estate's assets. The trust should specify that none of the principal should go to anyone else until after the surviving spouse's death, or you should have an insurance policy in a trust so one's children will have money to pay the estate taxes.

A prenuptial agreement may make sense financially but not work that well emotionally. One partner may fear being left alone one day without enough money. The other may feel he or she has to give away too much.

"In this case," Schlesinger says, "you should seriously consider mediation." A mediator (who may or may not be a lawyer) finds out from each partner what he or she really needs—emotionally and financially—from the agreement. Then the mediator works out the details with each partner's lawyer, so confrontation between the prospective partners is eliminated or held to a manageable minimum.

AUTOMOBILES

Choosing A Motor Club That's Best For Your Needs

Five major national motor clubs provide emergency road service, towing, and various travel discounts for members. Benefits can vary among chapters depending on the local costs of services such as towing and repairs.

Here are the basic offerings of each club:

AAA Motor Club. Membership is \$41 a year for one person, plus a one-time enrollment fee of \$15. Each additional family member is \$22. The Plus Option—available by invitation only, at \$19 more per year for one person and \$12 more for each extra family member—offers more-liberal towing terms plus trip-interruption protection (reimbursement for out-of-pocket expenses if your car is damaged or stolen more than 100 miles from home). Both the regular and the Plus membership options include trip-planning services, hotel and rental-car discounts, and service for drivers who have locked their keys in their cars. For more information or for the number of your nearest AAA club, call 1-800-222-4357.

AARP Motoring Plan. Members of the American Association of Retired Persons can join the AARP Motoring Club for \$39.95 a year. The fee covers the member and his or her spouse. The AARP club provides free towing to specified garages, or reimbursement up to \$50 if you use another towing service. Coverage includes trip-interruption expenses if an accident or auto theft occurs more than 50 miles from home. All AARP members get hotel, rental-car, and other travel discounts. Phone: 1-800-334-3300. (The number is the same as that for the Amoco Motor Club, which handles AARP's road services.)

Allstate Motor Club. A regular membership, which covers spouses also, costs \$39.95 a year. Allstate provides free towing to specified garages and up to \$50 reimbursement if you use another towing service. A Deluxe membership, at \$59.95 a year, provides towing reimbursement up to \$100 plus trip-interruption protection. Phone: 1-800-347-8880.

Amoco Motor Club. A Silver membership, which covers spouses, is \$49.95 a year. A Premier membership is \$74.95 for an individual, \$84.95 for a family. Both membership options offer trip-planning services, travel discounts, and roadside emergency service and towing. Premier members get more-liberal towing arrangements and trip-interruption protection. Phone: 1-800-334-3300.

Geico Motoring Plan. Membership is \$39.95 and includes all family members. Provides various travel discounts, trip-interruption protection, route planning, and reimbursement for the first \$50 paid for emergency roadside service and towing. Phone: 1-800-272-6669.



PHOTO: SCARLETT GREGG-UNPHOTO

Romantic they're not, but prenuptial agreements may ease the pain of divorce.

assets than the other. Thus, more people who have substantial assets are looking into prenuptial agreements.

"The purpose of these agreements," says New York lawyer Edward Schlesinger, "is to spell out in advance what legal rights the parties want to keep or

For Your Tax File

How to keep taxes from overtaking you.

By Albert B. Ellentuck

AUTOMOBILES

Ways To Minimize Taxes While Putting On The Miles

A company car is a useful fringe benefit, not only for executives of large companies but also for working owners of small businesses. However, the tax rules can be tricky, particularly when a car is used only partly for business.

Under the tax rules, the company must apply a business-use percentage to its automobile costs. The business portion of these costs (i.e., the "fringe benefit") is deductible by the company, and there is no withholding or payroll tax on this amount. Most important, the employee does not have to include this "fringe benefit" in income.

The portion of the car costs that are personal are also deductible by the company as compensation. Therefore, they are taxable to the employee.

But in a closely held company, why go to all that trouble? Wouldn't it be simpler to have the employee purchase the automobile and simply pay the employee additional salary to cover the costs of purchasing and maintaining the automobile?

This would not be the best approach. All the additional compensation would be taxable to the employee—not just the personal portion—and it would be subject to withholding and possible payroll taxes. In addition, any deduction by the employee of the business portion of his or her car expenses would likely be eliminated or reduced because of the 2 percent floor on miscellaneous deductions for individuals.

If a working owner prefers to own the car, a plan could be set up whereby the car's owner would account to the company for the business portion of the car's use, and the company would reimburse the car's owner for this cost. Under this approach, the reimbursement would be treated as a tax-free fringe benefit to the employee.

In a situation where a car is to be used for both business and personal reasons, either a company car or a reimbursement



PHOTO: SPEDRO COLL—THE STOCK MARKET

Business use of a car—whether the firm's or the employee's—requires record keeping for tax purposes.

arrangement will usually be advantageous.

Of course, it is advisable to consult with the company's accountant to set up the proper record keeping to substantiate business use, and then to maintain the proper records as required. It will pay off in better tax treatment for both the company and the working owner.

ESTATE PLANNING

A Will Is A Start; Here's What Else You Need

Last month in this column, we discussed the reasons why most people need wills. But a will may not be enough. Up-to-date estate planners now are recommending that clients consider living wills, medical and financial powers of attorney, and estate inventories.

Congress has just passed a law that requires hospitals to advise patients about living wills. But why wait until you're in the hospital? It is best to plan in advance—while you're well. A living will expresses your wishes as to how much life-sustaining medical treatment you would receive if you are too sick to make

your wishes known. A living will communicates these wishes to your family and physicians, and it can be helpful in getting the treatment you want.

Such a will usually is activated when a person becomes terminally ill or is in a coma that appears to be irreversible. A health-care power of attorney, on the other hand, takes care of those situations in which a person is unable to make decisions on his or her own behalf, although the person is expected to recover at some time. The health-care power of attorney supplements the living will.

It also is a good idea to have a power of attorney for your financial affairs. It can be set up as a "springing" power of attorney, which would take effect only if and when an individual could not manage his or her own affairs.

A power of attorney may be critical in helping preserve assets while an individual is incapacitated. It can be used to pay deductible expenses of an incapacitated individual before the end of the year, thus reducing current taxes.

For any of these documents, it is important to have a trusted friend or

family member serve as the trustee or attorney. Even though a friend or family member will know you well, it is important to make it clear to this person your precise wishes in these matters.

Another document that more and more people are drawing up and filing with their important papers is the estate inventory. The estate inventory lists your assets, their location, and any documents related to them. It should include such items as retirement-plan benefits, life-insurance policies, and a list of your valuable personal assets. It also should include important information such as the location of your safe-deposit box and the names and addresses of your insurance broker, accountant, and attorney.

Although it may take some time and effort to complete an inventory when you are well, it would take a lot more time and effort by your heirs if you do not do it.

And an inventory also can come in handy while you're alive, for example, to make sure you haven't overlooked any asset—such as a life-insurance policy—that could have an impact on your estate-tax planning.



Tax lawyer Albert B. Ellentuck is a partner in the Washington law firm of Colton and Boykin. Readers should see tax and legal advisers on specific cases.

Where I Stand

On Regulation

Results of this poll will be provided to leaders of Congress and the Bush administration as they consider the impact of federal regulations on the economy.

Send the attached postage-paid response card. Or you can circle your answers, fill out the coupon below right, and fax this page to (202) 463-5636.

See related story, Page 50.

- 1.** To what degree do federal regulations affect your business?
1. Significantly
 2. To some degree
 3. Not at all

- 2.** Do you believe any of those regulations could be simplified, replaced, or eliminated without hurting society?
1. Yes
 2. No
 3. Undecided

- 3.** Do you believe federal regulations have a greater or lesser impact on your business than state and local regulations?
1. Greater
 2. Lesser
 3. About the same

- 4.** Should the federal government establish uniform national laws in areas affecting business nationally to preempt state and local regulations?
1. Yes
 2. No
 3. Undecided

- 5.** Should the Bush administration permanently require greater federal-agency scrutiny of new and old regulations for their economic impact?
1. Yes
 2. No
 3. Undecided

- 6.** Should Congress pass a pending bill to require that proposed new laws and regulations be accompanied by analyses of their likely economic impact?
1. Yes
 2. No
 3. Undecided

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POLL RESULTS

Views On Health, Competitiveness

Most readers responding to a *Nation's Business* poll said that the high cost of health insurance is their company's biggest obstacle to providing coverage. And in a separate poll in the magazine, most respondents said they believe that U.S. competitiveness in world markets is falling.

Questions on health policy and competi-

tiveness were posed in *Where I Stand*, the monthly feature that seeks readers' opinions on major public-policy issues. Results of the polls are sent to top officials in the White House and Congress.

President Bush favors a long list of incremental reforms to improve the current voluntary system of employer-provided health coverage. Arkansas Gov. Bill

Respondents to our Where I Stand polls say health insurance is too expensive and U.S. competitiveness needs boosting.

Clinton, the Democrats' likely presidential nominee, favors a play-or-pay system proposed by Democratic leaders in Congress. Such a system would require businesses to provide health insurance or pay a payroll tax of approximately 7 percent to cover the government's cost of providing coverage for those who needed it.

Critics of play-or-pay contend that it is a back-door way for the Democrats to create a national health-care system because many employers could cut their health costs by paying a 7 percent payroll tax rather than continuing private coverage. The *Where I Stand* poll lends some support to that view. While 72 percent of the respondents said their companies now

HEALTH CARE

Who should have responsibility for paying for health care?

Federal government: 10% Employers: 8% Individuals: 31%
All of the above: 50%

If you were required by law to provide health insurance to your workers or pay an additional 7 percent payroll tax for each employee, which would you be more likely to select?

Provide coverage: 34% Pay additional tax: 35% Unsure: 31%

Self-employed individuals may deduct only 25 percent of their health-care costs from taxable income, while corporations may deduct 100 percent. Should the self-employed deduction be expanded to 100 percent?

Yes: 88% No: 5% Undecided: 7%

Does your company offer health insurance to its employees?

Yes: 72% No: 28%

If you answered "No" to the above question, what is the greatest barrier to offering insurance?

The cost is too great: 79% Insurer refused to cover one of my workers because of a pre-existing health condition: 8% Employees prefer other benefits or cash: 13%

How many employees does your company have?

1 to 25: 66% 26 to 99: 28% 100 to 499: 8% 500 plus: 5%

COMPETITIVENESS

Do you believe U.S. competitiveness in international markets is rising or falling?

Rising: 25% Falling: 82% Undecided: 13%

Do you believe that 1991 decisions made by Congress in economic policy, regulation, trade, and other areas affecting U.S. business and industry generally made the U.S. more competitive or less competitive?

More competitive: 4% Less competitive: 78% Undecided: 18%

Do you believe that the Bush administration's actions in 1991 on economic policy, regulation, trade, and other areas affecting U.S. business and industry generally made the U.S. more competitive or less competitive?

More competitive: 18% Less competitive: 80% Undecided: 22%

Are elected officials in Washington giving sufficient attention to matters affecting U.S. competitiveness?

Yes: 4% No: 93% Undecided: 3%

Do you think that there is a legitimate role for the U.S. government in increasing the competitiveness of American companies in world markets?

Yes: 85% No: 12% Undecided: 3%

If you answered "Yes" to the above question, what degree of importance do you attach to the U.S. government's role in increasing competitiveness?

Extremely important: 58% Very important: 34% Moderately important: 10%



PHOTO: T. MICHAEL KEZIA

U.S. Chamber Vice President Jeffrey H. Joseph testifies before Congress on health-care policy. Where I Stand poll results provide data for such testimony.

provide health insurance, only 34 percent said their companies would offer such private coverage under play-or-pay.

Most respondents to the poll on U.S. competitiveness criticized Congress and the White House on grounds that they pursue policies that diminish American competitiveness abroad. And 93 percent said that Washington officials are not doing enough to increase U.S. competitiveness.

"Although it is contrary to [U.S. Chamber] policy, the respondents believe that government has a positive and energizing role to play in keeping the U.S. competitive, and I think that's surprising," said William T. Archey, senior vice president for policy at the U.S. Chamber of Commerce. "The problem is that the poll doesn't tell us exactly which government actions the respondents support." **18**



NR0602

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A report on key legislative issues with suggestions for contacting Congress about them.

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A Better Approach To Pesticide Rules

Legislation with an ominous name—the Circle of Poison Prevention Act—seeks to solve a problem that does not exist, according to the U.S. Chamber of Commerce.

"Circle of Poison" refers to a scenario in which certain pesticides, illegal in the U.S., are exported for use abroad, and their residues are then shipped back into this country on foreign-grown produce.

While the Chamber agrees that the export of pesticides banned in this country for health reasons must be stopped, a 1990 Food and Drug Administration study showed that only 4.3 percent of sampled food imports contained violative residues.

Moreover, 93 percent of these were violative only because, for some pesticides, no U.S. regulations exist to indicate how much may be legally present in a particular commodity.

The legislation—H.R. 2083, introduced by Rep. Mike Synar, D-Okla., and S. 898, introduced by Sen. Patrick J. Leahy, D-Vt.—would take a needlessly strict approach to this situation.

For example, it would ban the export of pesticides that have no domestic use but are necessary in other nations because of varying crop or pest circumstances. Instead of such an approach, the Chamber recommends that government methods of scientific testing for pesticide residues be brought up to state-of-the-art levels and that import surveillance and pesticide-residue monitoring be increased.

Such an approach would promote the U.S. goal of liberalized global trade while maintaining the U.S. food supply as the safest in the world.

Contact your representative and senators, and tell them the sweeping measures recommended in these bills are unnecessary and inappropriate. Urge them to consider instead support for modernization of the food regulatory system, as well as more science-based risk assessment.



ILLUSTRATION: RICHARD GAFF

An Effort To Hike Unemployment Taxes

An effort in Congress to further extend unemployment benefits threatens to raise employer taxes. The measure would also permanently alter the basis for determining benefit eligibility.

The business community has a vital stake in the health and future of the unemployment-insurance (UI) system, which is financed by employers and helps to stabilize employment and sustain purchasing power during recessions.

The U.S. Chamber of Commerce believes that although difficult times may warrant extension of unemployment benefits, tax increases and permanent changes to the insurance system are ill-advised.

H.R. 4727, the Unemployment Compensation Amendments of 1992, would loosen the eligibility criteria for extended unemployment benefits. Such benefits are now available if the Insured Unemployment Rate (the number of UI-covered workers relative to the work force) reaches a given trigger level in a state. H.R. 4727 would replace the Insured Unemployment Rate with the Total Unemployment Rate (the number of all unemployed workers relative to the work force). This would, in effect, lower the trigger level dramatically.

To help pay for the additional benefits, H.R. 4727 would increase federal unemployment taxes. Today, a FUTA tax rate of 0.8 percent is applied to the first \$7,000 of employee earnings. Thus, \$7,000 is the current "taxable wage base."

H.R. 4727 would increase the taxable wage base by indexing it to average annual wages (currently about \$27,000). Even though the tax rate would be reduced to 0.3 percent from 0.8 percent, many employers would see their costs increase and continue to rise whenever average annual wages would rise.

Contact your representative to oppose passage of H.R. 4727 in its current form.



Proposed Changes In Safety Rules

The Comprehensive Occupational Safety and Health Reform Act, currently being considered by Congress, would extensively alter workplace health and safety regulations.

However, while workplace safety and health are of prime importance to business, the U.S. Chamber of Commerce views some approaches to maintaining and enhancing such standards—including the level of certain proposed penalties—as unreasonable and inappropriate. The organization has cautioned Congress that misguided "improvements" can drive up workers' compensation costs, interfere with production, and entail huge legal bills for businesses.

The Chamber recently testified at a House committee hearing on components of the proposed legislation—H.R. 3160—that would change the way regulations issued by the U.S. Occupational Safety and Health Administration (OSHA) are enforced. The Chamber cited several problems with the proposals.

First, H.R. 3160 would force the secretary of labor to accept anonymous complaints of possible health or safety violations—an easily abused practice.

Second, employers would be required to "freeze" the scene of a serious incident until OSHA completed an investigation. This could idle large numbers of workers. The Chamber proposes a more reasonable approach that would allow evidence to be preserved while permitting work to continue.

The bill also would force employers to pay up to \$7,000 per day for exercising their right to challenge citations.

Contact your representative and senators to urge changes in OSHA that would help improve workplace safety while protecting employers' legitimate interests. Urge them to oppose pending OSHA legislation in the House, H.R. 3160, and a similar bill in the Senate, S. 1622, unless the bill is changed significantly.



Editorials

Solve This Problem, Don't Make It Worse

The ink is scarcely dry on the 1991 Civil Rights Act, but Congress is already debating a proposal for a major change.

Pending legislation would eliminate the ceiling the 1991 law placed on punitive damages awarded for workplace discrimination against women or the disabled. The caps range from \$50,000 for firms with 15 to 100 employees to \$300,000 for those with more than 500 workers. Plaintiffs can claim those amounts (in addition to compensatory damages) for actual financial losses and for other reasons that include inconvenience, mental anguish, and "loss of enjoyment of life."

Those advocating removal of the caps on punitive damages in cases involving women or the disabled note that there are no such limits when a plaintiff alleges racial or ethnic discrimination.

There's obviously another side to this argument. Employers point out that equity could also be achieved by capping punitive damages in all cases.

In carrying that business message to Congress, the U.S. Chamber of Commerce says that "all protected classes should be treated equally, but this parity can be achieved without exposing innocent employers to the dangers and uncertainty of unlimited damages."

Abolishing the ceiling that was set in the 1991 law would intensify the problem that business envisioned when it opposed enactment of this law—that the ability to claim punitive damages in a jury trial would give disgruntled

workers yet another incentive to sue employers.

The American economy already suffers from excessive litigation that is itself the product of excessive government regulation of enterprise. Congress should be considering ways to reform the civil-justice system, not ways to intensify its problems by encouraging more lawsuits.

While the employer is often the first target of litigation stemming from government regulations, the eventual cost is borne by all Americans. U.S. companies are disadvantaged when they incur legal costs not borne by their foreign competitors. And those costs show up in consumer prices at home.

Basically, civil-justice reform should abolish or temper those aspects of the current system that foster the "jackpot" mentality. Lawyers operating on a contingency-fee basis file suits on behalf of clients alleging virtually any perceived injury against companies connected remotely, if at all, to the cause of the injury. The lawyers and their clients hope for massive punitive-damages awards from a sympathetic

jury or from a settlement by a firm that does not want to undergo a trial before that same type of jury.

Specific proposals to deal with such abuses of the system are pending in Congress. The lawmakers would serve the cause of justice much more effectively if they acted on that legislation rather than on initiatives that would only worsen the problems of the civil-justice system.



PHOTO: ROBERT J. LEWELLER—LAMP PHOTO

Business is hit too often with damage awards that drive up consumer costs and curb U.S. competitiveness.

"Benefits" That Carry A Hefty Price Tag

Election year 1988 saw the passage of legislation to insure the elderly against catastrophic medical costs. But those citizens soon discovered the fine print.

The benefits were to be financed by higher taxes on the elderly who were supposedly being helped. Their protests resulted in repeal of the insurance plan.

We commented at the time: "The experience may have some long-run positive results. . . . Perhaps those groups singled out for future largess will be more careful to begin evaluating early in the legislative process who is going to obtain the advantages and who is going to pay for them."

That 1988 episode is worth remembering in this election year as Congress again considers legislation on long-term health care. Democrats seeking to capitalize on public concern over the cost and availability of health coverage are pressing for a government role.

Once again, the sponsors are touting their generosity while downplaying, or even ignoring, the extent to which beneficiaries would also be handed the bill in the form of extensive tax increases.

Unearned income, interest, dividends, alimony, capital gains, and pensions, including Social Security benefits, would be hit with higher levies.

Annual pay in excess of \$5,000 would be subject to a new 1 percent payroll tax. The exemption on gift and estate taxes would be cut from \$600,000 to \$200,000 to gain still more revenue.

As the debate over health care continues against the background of a political campaign, taxpayers would do well to cut through the rhetoric and determine not only what every proposal offers but how and by whom it would be financed.

Free-Spirited Enterprise

ILLUSTRATIONS
MARTHA WILSON

Odd-Job Carryall

Paktek Inc., of Tacoma, Wash., gives new meaning to backpacking.

The firm's new backpack tool organizer is designed to let plant operators, maintenance personnel, and engineers carry as many tools as they might need on any job.

The Tool Pak is made of durable nylon that resists abrasions and punctures. It has more than 100 pockets, six fold-out panels, three zippered compartments, and two outer pockets.

The manufacturer says, "Buy a Tool Pak and get two hands free." Cost: \$99.97. For more information, call 1-800-258-8458.

Speak Up

When clients call your home-based business, do they hear a business, or do they hear a home?

Profit Associates, of Watertown, Conn., says the sounds of a business can enhance your image. The company distributes Office Chatter, a 60-minute audio tape of such office noises as file cabinets, adding machines, ringing phones, and typewriters. Play the tape while you speak on the phone, and no one will know you're the only one in your office.

Another tape, Computer Chatter, includes the sounds of computer printers. Interna-

By Janet L. Willen

tional Chatter, designed for businesses abroad, has all the sounds of Office Chatter except the ringing telephone, which the distributor says sounds too American.

Tapes cost \$9.95. For more information, call (203) 274-1219.

Pizza To Stay

Q. What's almost as good as fresh hot pizza?

A. Hot leftover pizza.

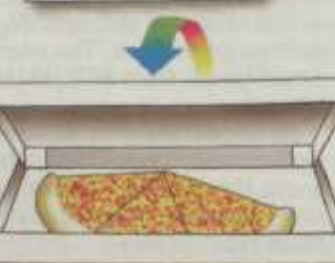
Packaging Concepts Corp. of Hagerstown, Md., aims to take the hassles out of serving pizza and carrying and storing leftovers. The company's new Space-Saver Box™ is perforated so it can easily be changed from the customary 14- or 16-square-inch pizza box into one half its size.

To serve a fresh hot pizza from a Space-Saver Box, remove the lid from the box and use the base as the serving platter. Then, to store the leftovers, fold the base where indicated to form the smaller storage box. It's designed to fit in refrigerators and microwaves.

The carton can be printed with logos. For more information, call (301) 733-5771.

Useful Leftovers

When PAX Co. Ltd. was look-



ing for a new, environmentally sound gift package, it looked in the refrigerator.

The company's new packaging idea uses milk-carton scrap. Ron Finkelstein, vice president of PAX USA, in New York, says PAX converts the prewaxed Kraft paper from old cartons and manufacturers' scrap into a stiff, cardboardlike material to make cream and ivory stationery and liquor gift boxes.

Other environmentally friendly—and elegant looking—PAX packages now available use natural wood and fiberboard to make hinged boxes without hardware for wine bottles, shoes, and hats.

Stop! Thief!

Security-conscious companies should take a look at the Pilfer-Indicating Tape from Consolidated Graphic Materials Inc., of Somerset, N.J.

You seal your cartons with the tape, as you would with any ordinary packing tape. This tape, however, bears a visible polka-dot pattern.

When someone opens the package and then reseals it with clear tape, a chemical reaction begins, causing the word "opened" to appear gradually. The manufacturer uses a time-delay reaction so the receiver will know of the tampering—and the culprits won't see the change. They'll find out only when you—or the police—tell them.

The manufacturer also makes pilfer-indicating seals, tags, and labels. For more information, call (908) 356-6700.

Safety First

More on safety is available in *Bug Off! 50 Simple Ways To Protect Yourself From Burglars, Thieves, Muggers, Con Artists & Other Lowlifes*, by Jim Mantice. Published by Walnut Grove, of Evanston, Ill., the book describes traps to watch out for and gives 200 tips on how to avoid them—or deal with them.

Here's one: Don't advertise your car dealer's name on the license-plate holder. It tells the professional thief where to go for a set of keys.

First, the thief can get your name from the state license bureau; then he can finagle a set of keys from the car dealer's office.

The book is available for \$6.95 from Walnut Grove Publishers, P.O. Box 7075, Evanston, Ill. 60201; (708) 328-4646.



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A photograph of a light-colored Kodak Ektaplus 7016 printer. A hand is shown lifting the top lid. A small card is placed in the output tray, listing the bonuses. The card reads: "PRINTER/COPIER", "+ BONUS SUPPLIES", "+ BONUS FONTS", and "+ \$200 BONUS".

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Chamber Presses Deregulation

At the urging of the U.S. Chamber of Commerce and other groups, the Bush administration added 120 days to its original 90-day moratorium on new federal regulations.

The extended moratorium will run through August.

In a letter to the White House, Chamber President Richard L. Leshner praised Bush's April 29 action as well as the efforts of the administration's Council on Competitiveness, which Vice President Dan Quayle chairs.

Leshner said the Chamber is "ready and willing to promote all such deregulatory efforts." The organization had urged Bush to extend the moratorium and has been working with the White House on its regulatory review efforts.

The Chamber testified May 1 before the Republican Research Committee's Task Force on Small Business about the impact of regulations on small firms.

(For more information on how regulations are affecting small firms, see Page 50 in Nation's Business.)

In his remarks to the task force, Jeffrey Joseph, the Chamber's vice president/domestic policy, suggested that lawmakers strengthen existing laws requiring that regulations be reviewed. He also called for establishing limits on the annual costs that federal agencies can impose on business.

As part of its deregulatory campaign, the Chamber has established a clearinghouse to collect evidence on the adverse effects of regulations on business. The organization is inviting companies to detail in writing their experiences in coping with federal red tape.

These accounts will provide documentation for the Chamber's case for elimination or modification of certain

(Continued on Page 100)

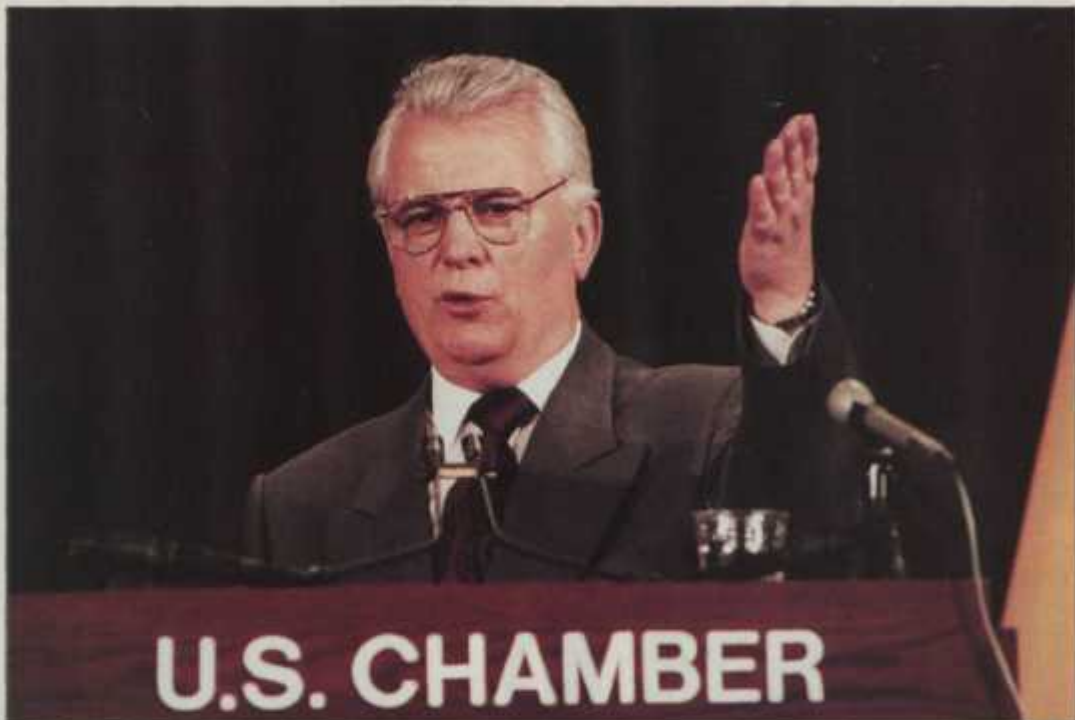


President Bush extends his ban on new regulations. With him, from left, are Vice President Dan Quayle, White House Counsel C. Boyden Gray, and Michael Boskin, chairman of the president's Council of Economic Advisers.

■ International

Ukrainian Invites U.S. Investment

Leonid Kravchuk, president of Ukraine, one the newly independent republics of the former Soviet Union, tells business people at the U.S. Chamber: "The opportunities are there. If you should bring in the capital, there's a very good chance you will get profit out [of Ukraine]."



Leonid Kravchuk, president of the newly independent Ukraine, told U.S. business leaders May 7 that his country's economic and political reforms are progressing and that there is "huge potential" for foreign investment in Ukraine.

He commented on recent developments in his country in an address at the U.S. Chamber of Commerce. He was the second major leader from the former Soviet Union to address the Chamber in recent weeks. (See related

photo and story on Page 98.)

The "breadbasket" of the former Soviet Union declared its independence less than a year ago. The second-largest country—after Russia—in the recently formed Commonwealth of Independent States, Ukraine has more than 50 million people.

"The opportunities are there," said Kravchuk. "If you should bring in the capital, there's a very good chance you will get profit out [of Ukraine]."

Kravchuk's address at the Chamber

was part of a dialogue between U.S. and Ukrainian business people and an adjunct to his mission to this country to secure economic aid. Kravchuk met with President Bush the day before his Chamber speech to sign treaties to expand trade and cooperation between the two countries.

Accompanying Kravchuk at the Chamber were several Ukrainian ministers, including those of foreign affairs, agriculture, and environment, as well as a number of Ukrainian business leaders.

■ Managing

Seminars Draw Thousands

Total Quality Management is a hot topic, if attendance at a series of five U.S. Chamber of Commerce-sponsored televised seminars is any guide. The seminars, co-sponsored by the Chamber and George Washington University, in Washington, D.C., were transmitted by satellite to more than 250 sites across the country, at intervals between March 31 and May 7.

For the first seminar on March 31, more than 5,000 people turned out at the 66 sites where satellite hookups were arranged by state and local chambers of commerce. Thousands more

viewed the seminars at businesses, universities, and other sites.

With each seminar, the number of sites and attendees increased. By April 28, the date of the fourth seminar, the number of chamber-related sites had grown to 75, and 6,200 people attended.

The seminars offered business people in towns of all sizes the opportunity to hear some of the giants of the quality movement: J.M. Juran, W. Edwards Deming, Philip B. Crosby, and others. Members of the audience could send questions to the speakers by either phone or fax.

The U.S. Chamber is now planning a series of satellite seminars, to begin Sept. 16, that will provide instructions on how to implement TQM in a small business. As the Chamber prepares the new series, it is surveying state and local chambers for their members' thoughts on the spring seminars and for views on topics that should be covered in the new series. U.S. Chamber members should check with their state and local chambers for details on the new series.

Says U.S. Chamber President Richard L. Leshner: "The satellite seminars are an important part of a major effort by the Chamber to introduce small firms to the concept of quality management. We believe that TQM is a vital competitive tool in an increasingly competitive world."

■ Politics

Sharing Business's Views With Candidates For Congress

Members of the U.S. Chamber staff and business people have been meeting recently with a host of candidates for Congress to familiarize them with the views of business. The meetings, which are ongoing, provide an excellent opportunity for the Chamber to tell candidates where business stands on issues expected to remain important after the November elections. Meetings have been held with current members of Congress who are up for re-election as well as challengers.



Business people talk with candidates for Congress: Phil Wyman (top photo, right), a Republican seeking the House seat for California's 25th District; Rep. William H. Orton, D-Utah, (lower photo above, in center with glasses), seeking re-election from the 3rd District; Rep. Pete Geren, D-Texas, (center in top left photo), seeking 12th District re-election; and Sen. Richard C. Shelby, D-Ala., (right in photo at lower left).

PHOTOS: LAMARCA LEVIN

■ Labor

Chamber Set For Striker Bill



A strike earlier this year at heavy-equipment maker Caterpillar Inc. boosted the momentum of striker legislation in the Senate.

Led by the U.S. Chamber of Commerce, business was mobilized to defeat a Senate vote on a bill to expand strikers' rights. The vote was expected to come in late May.

The legislation, which passed the House last year, would ban employers from hiring permanent replacements for striking workers in disputes over

"economic" conditions, such as wages and benefits. Current law already bans permanent replacements in cases involving unfair labor practices.

The Chamber has led a business coalition against the legislation and has worked vigorously to defeat the measure for over a year. One of the key business strategy meetings in prepara-

tion for the Senate vote was a rally at the Chamber in early April. Sen. Orrin Hatch, R-Utah, the keynote speaker at the rally, pledged to lead the drive against the bill in the Senate. Hatch, the Chamber, and other opponents of the measure say it would upset the long-established labor-law balance between workers' and employers' rights.

■ Broadcast



Dan Kush interviews Sen. Orrin Hatch on his plans for fighting strike-related legislation. The interview was broadcast on "First Business," the television news show produced by the U.S. Chamber. The show debuted on the USA Network on April 6. It airs Monday through Friday from 6:30 to 7 a.m. (Eastern and Pacific times).

■ Safety

Changes Urged In OSHA Bill

The U.S. Chamber of Commerce is working to eliminate unnecessary and burdensome provisions in legislation to reform the Occupational Safety and Health Act.

And comments from the chairman of the House Education and Labor Committee indicate that lawmakers may be willing to listen.

Rep. William D. Ford, D-Mich., praised the Chamber's vice president and general counsel, Stephen A. Bokats, following Bokats' testimony on the OSHA reform bill before the House panel.

Ford said, "We may be at a stage in developing this legislation where we can communicate with each other in a way that will be constructive and give American business the kind of confidence [in the health and safety law] it really ought to have."

Ford is the legislation's sponsor in the House. Sens. Edward M. Kennedy, D-Mass., and Howard M. Metzenbaum, D-Ohio, are the sponsors of a similar Senate bill.

As currently drafted, the OSHA reform legislation would, among other changes:

- Increase the penalties on those who violate workplace health and safety rules.

- Impose new reporting requirements on employers.

- Grant employees new powers.

Bokats told the labor committee that although the Chamber supports several of the legislation's provisions, it "strenuously objects to others."

Among the objectionable provisions are measures to dramatically increase the federal criminal penalties for violations of the Occupational Safety and Health Act.

Bokats said that although the Chamber agrees that current penalties are "relatively light for willful violations resulting in death," the increases in penalties for lesser violations are a "tremendous overreaction."

He said the OSHA law should remain primarily a civil statute, and he pointed out that the threat of criminal prosecutions will prompt employers to demand protections guaranteed by the Constitution, such as search warrants before plant inspections, Miranda warnings—if charges are brought—and the presence of legal counsel.



Steven A. Bokats, vice president and general counsel for the U.S. Chamber, asks the House education and Labor Committee to consider employers' concerns about a health and safety bill.

Other provisions the Chamber objects to would:

- Allow employees and their representatives to challenge as inadequate citations issued to employers by OSHA.

- Expand the rights of workers to participate in settlements of citations contested by employers.

- Require that OSHA conduct work-site investigations of anonymous complaints of health and safety violations.

Current law requires that employees or their representatives file written

complaints with OSHA, detailing alleged violations.

- Allow state and local criminal prosecutions of employers for alleged OSHA violations even though no federal or state OSHA law is broken.

The pressure for lawmakers to amend the 1970 health and safety law is coming from the AFL-CIO, which says employers are not doing enough to protect their workers from occupational hazards. Employers and OSHA say the current law is working.

■ Resources

Help In Managing Workers' Comp

The U.S. Chamber of Commerce is making available several resources to bring business people up to date on workers' compensation developments.

One of the most comprehensive overviews of workers' compensation laws is the 1992 edition of the *Analysis of Workers' Compensation Laws*. The cost is \$15. A supplement will be available in late July for \$7.

To order either or both, call 1-800-638-6582 or, in Maryland, 1-800-352-1450.

On June 13 and 14, "It's Your Business," the weekly syndicated public-affairs television program produced by the Chamber, will focus on workers' comp. Check your local TV listings for the broadcast time, date, and station in your area.

In addition, the July cover story of *Nation's Business* will highlight the latest trends in workers' comp and suggest ways that companies can manage this benefit's rising cost.

■ Unemployment

Benefit Proposal Would Hike Taxes

The U.S. Chamber of Commerce is opposing legislation proposed by Rep. Thomas J. Downey, D-N.Y., that would make permanent changes to the unemployment insurance system.

The bill—H.R. 4727—would also further extend already extended jobless benefits beyond their July 4 expiration date.

While the Chamber does not oppose extending benefits, it does oppose the provision that would change permanently the trigger for activating extended benefits. Currently the trigger is the Insured Unemployment Rate (IUR). The new trigger would be the total unemployment rate.

The U.S. Chamber is also particularly concerned about the financing provision in the bill, which would index the taxable wage base for unemployment compensation, currently \$7,000, to a figure unrelated to benefit calculations. The new wage base would be based on "average annual covered wages"—a figure determined by each state based on income within the state.

When a similar measure to change the unemployment compensation system was considered by Congress last year, the base was to be the Social Security wage base, currently \$55,500.

In either case, employers' tax liabilities



Rep. Thomas J. Downey's unemployment compensation bill would raise employers' taxes.

would be expanded, the Chamber notes.

Unemployment benefits currently are available for up to 26 weeks, with an additional 13 weeks of aid available under exceptional circumstances.

On a related issue—job training—the Chamber is supporting President Bush's "Job Training 2000" proposal. The plan would streamline and consoli-

date job-training programs currently dispersed throughout numerous federal agencies.

Contact your senators immediately and urge them to oppose any measure similar to the Downey bill, which was moving quickly in the House in May. Dial the Senate switchboard at (202) 224-3121.

■ Education

Series Set On National Goals

The U.S. Chamber of Commerce's Center for Workforce Preparation and Quality Education and the U.S. Department of Education plan to co-sponsor six satellite town meetings on the national education goals set by President Bush and the nation's governors.

The first of the six teleconferences was scheduled for May 26 and 27 from the Chamber's headquarters in Washington, D.C.

Each teleconference will focus on one of the six national goals. The subject chosen for the May 26 and 27 teleconference was the goal of achieving a 90 percent graduation rate in U.S. high schools by the year 2000.

The dates of the other teleconferences, with the goals to be addressed, will be announced soon. Watch for the August issue of *The Business Advocate* for details.

The purpose of the teleconferences is to provide a forum for the more than 900 communities where chambers of commerce are working to further the national education goals and to bring other interested communities into the discussions as well.

"Local chamber volunteers will be highlighted during the course of the town meetings," says Robert Martin, vice president/executive director of the center. Viewers nationwide will be able to call in during the teleconference to ask questions on implementing the national goals.

The first teleconference was being underwritten by a grant from McKee Baking Co., in College Dale, Tenn.

■ Training

E. European Intern Program

The U.S. Information Agency, in cooperation with the U.S. Chamber of Commerce, is working to identify and place qualified Eastern European business managers and entrepreneurs as interns with U.S. companies.

The organizations are working on the internship program with the East-West Management Institute, a division of the SOROS Foundation, in Washington, D.C.

The USIA will bring the business people to the U.S. after they have been screened by the EWMI and the U.S. embassies in the prospective interns' countries.

For details, call USIA's Office of Private Sector Committees at (202) 619-6090.

What Will You Do When Your Personal Assets Are Seized to Satisfy A Judgment Against Your Corporation?

All your many tax benefits of owning a corporation could be wiped out overnight. How? The I.R.S. could visit you and claim you have not kept proper corporate minutes. You could lose the very tax benefits to which the law entitles you.

Here are some recent "horror stories" direct from actual court cases:

Joseph P. obtained a loan from his corporation without the proper loan documents and corporate minutes. As a result, the court required him to pay additional taxes of \$27,111.60. He narrowly escaped a penalty of \$13,555.80.

B.W.C., Inc. was forced to pay \$106,358.61 of accumulated earnings tax because its corporate minutes were incomplete. They expressed "no specific, definite, or feasible plans" to justify accumulating earnings, according to the court.

Keeping records has always been a bother, and an expensive one, especially for small companies. Most entrepreneurs do not like to spend time keeping records. Probably because no one ever became rich by keeping records. And in a small, one-person business, it seems downright silly to keep records of stockholder meetings and board of directors meetings...keeping minutes...taking votes...adopting resolutions...isn't it all just a waste of time?

Not if you ask any of the thousands of entrepreneurs who have lost fortunes because they failed to keep records. You should look at corporate recordkeeping chores this way: *It's part of the price you pay to get the tax benefits and personal protection from having a corporation.*

A corporation does not exist except on paper, through its charter, by-laws, stock certificates, resolutions, etc. Anything you do as an officer or director has to be duly authorized and evidenced by a resolution of the stockholders or the board, or by both in some cases. It makes no difference if there is only one stockholder or one million stockholders. The rules are basically the same.

You can hire a lawyer, like the big companies do, and pay \$100 or more just to prepare one form. But you may need, at minimum, a dozen or more documents to keep your corporation alive and functioning for just one year. This type of work is the bread and butter for many corporation lawyers. Most of the work can be done by their secretaries, yet they will charge you enormous sums because they know how important these forms are.

There is now a way for you to solve your corporate recordkeeping problems. Without a lawyer, without paying big fees, and without spending a lot of time. Virtually all the forms you will ever need are already compiled in **The Complete Book of Corporate Forms** by Ted Nicholas. Nicholas also publishes the highly popular special report, *How an "S" Corporation Can Save You Tax*. Written by Joseph Oliver, CPA, this report details how an "S" Corporation—one of the most underused tax avoidance methods—can save you literally thousands of tax dollars each year.

But forming a corporation is only the first step toward building "the ultimate tax shelter." Through carelessness or neglect, many people are denied their rightful benefits from owning their own corporation. Ted Nicholas saw that many business owners needed more help *after* they incorporated.

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■ Business In Court

Pricing Restrictions Challenged



New York City restricts Hertz's ability to set auto rental rates that reflect costs.

The National Chamber Litigation Center, the U.S. Chamber's public-policy law firm, is challenging a New York City law that, if not overturned, could severely restrict companies' ability to set prices for their goods and services.

The city law prohibits "rental vehicle" companies from imposing fees or charges on customers based on their residence.

The statute was enacted earlier this year after the Hertz Corp.'s announce-

ment that it would increase daily rental rates for residents of four of New York's five boroughs because of higher-than-average liability losses from auto renters residing in those boroughs. Hertz found in its analysis that for 1988-1990, liability losses for its New York region were almost three times higher than the national average, and most of those losses were from city residents.

There were even significant differences between residents of New York's

boroughs. On average, people from the Bronx, for example, had daily losses of \$56.44 above the New York region average; Manhattan residents had losses \$3.80 above normal. Hertz says that for every \$1 in revenue from Bronx residents, it lost \$1.28 in liability costs alone.

Hertz and NCLC say the city law restricting Hertz's price-setting ability violates the U.S. Constitution, which prohibits restricting interstate commerce. NCLC has filed a brief supporting Hertz in the case.

According to NCLC, by preventing New York citizens from having to pay more, the law in effect mandates that those people who live outside New York City must pay more.

The litigation center says the law amounts to "economic protectionism."

The statute has implications beyond the car-rental business, too, says NCLC.

"If cities and states can act to protect local car-rental customers at the expense of out-of-state residents, they may take similar action with respect to the sale of every other service and commodity," says NCLC's brief.

Special rates for out-of-town or out-of-state customers on hotels, places of entertainment, or even advertising, for example, could be barred.

The only choices for Hertz—and other car-rental firms—if the New York law stands, would be to raise its rates universally or withdraw from the New York City market, according to the company and NCLC.

■ Regulation

Revising The Endangered Species Act

The Endangered Species Act is one of several environmental laws up for reauthorization by Congress this year, and the U.S. Chamber of Commerce is working to get the law revised.

As part of its effort, the Chamber is seeking examples of companies whose operations have been adversely affected by the law.

The effort is part of a broader Chamber campaign to get Congress and federal agencies to consider the economic impact of all federal regulations.

Other environmental statutes up for reauthorization this year are the Re-

source Conservation and Recovery Act, which governs solid-waste disposal, and the Clean Water Act.

The Endangered Species Act protects plants and animals on the federal endangered-species list, usually by limiting land use. But critics of the measure say the law goes too far in restricting property use.

In the Pacific Northwest, for example, the law is being used to protect the habitat of the northern spotted owl. Because part of that habitat includes prime timber areas, the law has put timber and logging operations out of

business and thousands of forest-industry employees out of work, according to the American Forest Council.

Around the country, the endangered-species law has delayed highway-construction projects and hindered farming at a cost of hundreds of millions of dollars to the economy, according to critics of the statute.

Businesses that have been adversely affected by the Endangered Species Act and that would like to join the Chamber's effort should send stories of their experiences and a phone number where they can be contacted to: "Endangered Species Act," Resources Policy Department, 1615 H Street, N.W., Washington, D.C. 20062-2000. Stories should be sent by July 1.

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Trade

Reducing Barriers



Yegor Gaidar, deputy prime minister of Russia, addresses business leaders at the Chamber shortly before his nation was offered membership in international lending organizations.

Congress should remove remaining U.S. government impediments to doing business with the nations of the former Soviet Union—now known as the Commonwealth of Independent States (CIS)—the U.S. Chamber of Commerce told a Senate panel.

Chamber Vice President/International Willard A. Workman said that while the component parts of the former Soviet Union have been easing restrictions on foreign trade and invest-

ment since 1985, U.S. barriers have remained in place for the most part. Among the barriers are high U.S. tariffs on CIS exports.

Workman made his comments at a hearing before the Senate Foreign Affairs Subcommittee on European Affairs. He told the panel that promoting U.S. trade and investment with the CIS will spur economic growth there, which could ultimately lead to a greater potential market for U.S. firms.

Ballot Results

Optimism Rises About Economy

Respondents to the Business Ballot are more confident about the economy than they have been since the poll began in May 1990.

The latest poll of U.S. Chamber of Commerce members, conducted in April, found 53.9 percent of respondents expecting the economy to improve over the next six months. And 48.8 percent of respondents expect their own firms' sales to increase over the same period.

The employment outlook also rose in April, with 23 percent of respondents expecting their work forces to grow. Only 14 percent expect to cut employment, while 63 percent expect their work forces to remain the same size. The percentage expecting to cut employment was the lowest since May 1990.

The Chamber details swings in respondents' expectations with its Business Confidence Index. The index hit a new high in April, rising to 63.3 from 59.1 in February.

The index is the average of three separate indexes that reflect respondents' outlook for the economy, their own sales, and their employment.

Commenting on the latest poll results, U.S. Chamber President Richard L. Leshner said: "We anticipate this is not another false recovery signal like the one last spring. The economy should continue to grow this year."

On three April Business Ballot questions related to the November elections, only 37 percent of respondents said they expect to vote for their current U.S. representative. Fifty-six said they would not vote for their representative, and 7 percent said they had no incumbent running for re-election. Among those who will have a U.S. senator up for election, just 24 percent said they would vote for the incumbent, while 59 percent said they would not.

In addition, 91 percent said a candidate's position on business-related issues influences their vote. Five percent said a candidate's position on such issues does not affect their vote, and 4 percent were undecided.

Be sure to respond to this month's Business Ballot on environmental issues and the economy. The results go to all members of Congress, the Bush administration, and the national news media.

■ Business Ballot Results

Your Responses Attract Attention

Increasingly, the major news media—as well as members of Congress and the Bush administration—are looking to the U.S. Chamber of Commerce for business's outlook on the economy and on important emerging issues on Capitol Hill. Your responses to the Business Ballot and to Where I Stand in *Nation's Business* are enabling the Chamber to provide

the press and government with significant, timely information from the grass roots. As part of the Chamber's effort to let you know how your responses are helping to influence decisions in Washington, here is a sampling of media coverage related to the results of the February Business Ballot questions on the economy.

Investor's Business Daily

THE ECONOMY

Economy Showing Signs Of Renewed Life

By Laurie Marmor

In the U.S. economy, suddenly there are signs of spring in the air.

The Chamber of Commerce reported yesterday that businesses have grown sharply more optimistic about the economy's prospects in the most recent three months.

said continued growth could mean higher production and an increase in jobs in the troubled manufacturing sector, which represents roughly 20% of the nation's economy.

"The factory report is part of a whole range of signs that suggest the economy is probably starting to turn up a little," said Allen Sinai, chief economist at Boston Co. Economic Advisors in New York.

The Commerce Department said orders—a broad barometer of activity—totalled

USA TODAY

Small manufacturers show more optimism

by Rhonda Richards
USA TODAY

Small manufacturers are more upbeat about the economy this year than they

fire of optimism about the economy. The U.S. Chamber of Commerce reported March 4 that its business-optimism index rose to 50.1



CBS



The New York Times

Business Executives in a Survey Start to See Signs of Turnaround

February's Retail Sales Up in New Evidence of Economic Gain

By STEVE LOHR

Eying their cash registers, showrooms and shop floors, many American

And last week, the United States Chamber of Commerce said business optimism nearly tripled from December to February. It reported that 47

of the more than 7,900 execu-

AP Associated Press

Business Optimism Is Up Dramatically, U.S. Chamber Says

WASHINGTON (AP) — Business people throughout the nation have grown dramatically more optimistic about the economy in the last three months, according to a survey released yesterday by the U.S. Chamber of Commerce.

Asked about ..

THE WALL STREET JOURNAL

Washington Wire

A Special Weekly Report From
The Wall Street Journal's
Capital Bureau

FED AND BUSH OFFICIALS hold their breath for evidence of recovery.

Signs of life in manufacturing and home sales cheer economic officials, but this morning's unemployment report is crucial. Financial markets anticipate a slight increase in employment. Like government officials, voters have been turning cautiously

"Business people are apprehensive that the good news they hear today may be the same false echo of recovery they heard last spring," says Chamber President Richard Leshner.



■ Secretary Of Commerce



Barbara Franklin, the new secretary of commerce, visited the U.S. Chamber recently to meet with Chamber executives. Greeting her were Chamber President Richard L. Lesher, left, and Jeffrey Joseph, Chamber vice president/domestic policy.

■ Regulation

Chamber Urged Ban's Extension

(Continued from Page 89)

regulations and may also be publicized in upcoming reports on regulation in *Nation's Business*.

Companies should send their accounts, including a phone number for the individual knowledgeable about the regulatory problems, to: Regulations, *Nation's Business*, U.S. Chamber of Commerce, 1615 H Street, N.W., Washington, D.C. 20062-2000. Accounts related to the Endangered Species Act may be sent to the same address or to the one listed in the separate story on that subject on Page 96.

The Chamber recently submitted to the Bush administration's Council on Competitiveness a list of some of the regulations most onerous and costly to business. Many were in the environmental and health and safety areas.

President Bush announced his initial ban on new regulations in his Jan. 28 State of the Union address.

■ New Rules

Problems With Estimating Taxes

The U.S. Chamber of Commerce is urging repeal of the individual estimated-tax provision enacted late last year that is causing problems for small-business people.

The provision eliminated the so-called safe harbor for taxpayers whose income exceeded \$75,000 in a given year and increased by \$40,000 or more from the prior year.

The change affects small-business owners and partners and S-corporation stockholders who have at least a 10 percent interest in a business, according to Thomas P. Brock, a member of the Chamber's small-business and tax committees. Brock is also chairman of the board of the accounting firm Brock & Co., in Boulder, Colo.

Under the old law, many small-business people who paid estimated taxes during a year had to pay 100 percent of the prior year's tax liability or 90 percent of the current year's liability in four installments over the year. Those payments were due on

April 15, June 15, Sept. 15, and the following Jan. 15.

Starting with tax years beginning after Dec. 31, 1991, those individuals have no choice: They must meet the 90 percent provision if they made at least \$75,000 and their income increased by at least \$40,000 over the previous year.

According to Brock, the problem is that the June 15, Sept. 15, and Jan. 15 payments must be based on actual income up to the end of the month prior to those dates. And many companies likely will not have adequate monthly financial statements in time to project their income to make the three payments subject to the new tax provision. Also, many small-business people will not know if they meet the \$40,000 income-increase test until after Jan. 15 of the following year.

Failure to make a sufficient estimated payment on any of the due dates will result in a nondeductible interest penalty.

■ Trade

Forums Highlight EC Developments

The U.S. Chamber of Commerce continues to monitor closely and keep U.S. business people informed about the market-integration process known as EC92, which is under way in the European Community.

In a recent International Forum address sponsored by the Chamber, the president of Turkey, Turgut Ozal, said his country is still pursuing membership in the EC. He also said Turkey is working to improve its trade relations with other parts of the world while keeping a close eye on security matters, particularly in Iraq to its south.

At a separate International Forum, Vasso Papandreou, social affairs commissioner of the EC, addressed business representatives about the community's Social Charter. The charter is a package of 47 laws to establish minimum safety and health standards, regulate labor practices, and provide greater employee participation in business decisions. U.S. firms are concerned that these measures could greatly increase operating costs in Europe.

Also, Ludolf-Georg von War-



Richard L. Leshner, president of the U.S. Chamber (left), discusses the organization's use of computer technology with Turgut Ozal, president of Turkey.

tenberg, director general of the Federation of German Industries, detailed how German firms are taking advantage of the increasingly integrated EC market and the emerging markets of Eastern and Central Europe. He made his remarks at a separate International Forum, noting that the German experience could serve as a model for U.S. businesses.

In another effort to keep U.S. businesses informed about EC developments, William T. Archey, senior vice president/policy of the Chamber, participated in the Europe Business Outlook Conference sponsored by the U.S. Commerce Department and the University of Tennessee in Knoxville.

During a panel discussion, Archey expressed concern that product standards being developed by the EC are more protectionist "than we hoped and could be more so than we feared."

For more information on the International Forum series, call the Chamber's International Division at (202) 463-5460.

■ Legislation

Trade Bill Seeks Boost In U.S. Competitiveness

Sen. Max Baucus, D-Mont., said he will push Congress to enact a major trade bill this year to enhance the competitive position of American businesses in world markets.

The end of the Cold War means a new era of worldwide economic cooperation, but U.S. trade policy has not changed to meet the new international picture, contended Baucus, chairman of the Senate International Trade Subcommittee, at



Sen. Max Baucus, D-Mont., is pushing a trade bill backed by the U.S. Chamber.

a U.S. Chamber of Commerce International Forum.

Baucus' bill would renew the Super 301 provision of the 1988 Omnibus Trade and Competitiveness Act.

This provision, effective in 1989 and 1990, required U.S. Trade Representative Carla Hills to identify "priority" countries that maintained persistent unfair barriers to trade. These priority countries could be subject to U.S. trade retaliation.

The U.S. Chamber backs extension of Super 301 to reduce trade barriers.

■ North America

Planning For Profit

Representatives of U.S., Mexican, and Canadian business communities have begun discussing how to maximize profits under the proposed North American Free Trade Agreement.

Willard A. Workman, vice president/international of the U.S. Chamber of Commerce, represented American interests recently at a strategy session in Monterrey, Mexico. The free-trade agreement would remove most tariff and nontariff barriers to commerce in the North American marketplace. It is expected to be ratified by the U.S., Mexican, and Canadian governments late this year or early in 1993. However, election-year politics could pressure the Bush administration to try to conclude the pact earlier.

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■ Election '92

Chamber Vote Drive Wins Support



"There are forces stirring this year that make it possible something big could happen" in the November elections, says political commentator Kevin Phillips. The U.S. Chamber is urging employers to vote and to encourage their employees to go to the polls in November. Materials to help employers, such as voting-reminder posters, are available from the Chamber.

Response to the U.S. Chamber's get-out-the-vote initiative, which began in April, has been good, according to Robert Aagre, manager of the federation's Legislative Affairs Department.

Business people nationwide are requesting voting materials from the Chamber, he says. The materials—free to Chamber members, except for a \$5 shipping and handling charge—include posters and payroll inserts to remind people to go to the polls Nov. 3.

In Congress, all 435 seats in the House and 35 seats in the Senate are up for election. And political analysts are estimating that as many as 120 new faces could be sent to Capitol Hill.

In a recent address at the Chamber, Kevin Phillips, one of Washington's most respected commentators, told a meeting of Association Insiders that the presidential election of 1992 promises to be unlike any "since Teddy Roosevelt ran a serious third-party campaign in 1912."

"There are forces stirring this year that make it possible something big could happen," Phillips, editor and publisher of *The American Political Report*, told the group. Voters want change, at least at this stage, Phillips said.

The near-candidacy of Texas billionaire entrepreneur Ross Perot represents a challenge for both the major-party candidates, with polls showing Perot a close third behind probable Democratic nominee Bill Clinton and Republican President Bush.

It's possible, said Phillips, that Perot could move into second, "and no one knows how to deal with a candidate who is second in a three-way race before he's even declared." In three-way races, traditionally the outsider does reasonably well in the spring and then fades by October. But Perot's candidacy is not following the pattern, Phillips said, noting that Perot should have peaked in April but hasn't.

To order voting materials or to receive copies of the Chamber's *How They Voted* publication—a tally of lawmakers' congressional voting records on business-related legislation—contact Publications Fulfillment at 1-800-638-6582. Vote America, a nonprofit, nonpartisan organization in Washington, can provide information on the voting rules in each state. Vote America can be reached at (202) 659-4595.